SPEECH

OF

MR. DOUGLAS, OF ILLINOIS,

ON THE

TERRITORIAL QUESTION.

DELIVERED IN SENATE OF THE UNITED STATES, MARCH 13 AND 14, 1850.

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The Senate having under consideration the message of the President of the United States, transmitting the Constitution of California—

Mr. DOUGLAS rose and addressed the Senate as follows:

Mr. PRESIDENT: Before entering into the discussion of the series of questions in the range of this debate, I must be permitted to refer to some points in the able and eloquent speech of the distinguished Senator from Massachusetts. I regret exceedingly that in a speech so eminently liberal, national, and patriotic on all the points which unfortunately disturb and distract the country, he should have deemed it necessary to have marred its harmony and broken its force by introducing taunts and criminations of a mere partisan character. His attacks upon the Northern Democracy, in connexion with the annexation of Texas and the support of the Mexican war, and the acquisition of territory by the treaty of peace, were as gratuitous and unprovoked as they were unfounded and unjust. He charged the Northern Democracy with having supported the annexation of Texas under "pledges to the slave interest," and for the purpose of sustaining the slave power of this Union. Gladly, sir, would I pass by in silence this act of injustice, and others of equal enormity, could I do so in justice to myself and those with whom I have ever been associated politically, and the members of the House of Representatives with whom I acted in concert on the annexation question. I must be permitted to tell the Senator from Massachusetts that neither his present position nor his past political associations authorize him to speak for the Democracy of this Union, North or South, or of the motives which influence their action, any further than he finds those motives and reasons recorded in the speeches and political history of the times. It is not his mission to divine our motives and assign to us sentiments and opinions which we never entertained, much less expressed. I claim at least, an equal right with him to speak for the Democracy upon all questions, and especially upon the annexation of Texas. And I now tell him, with entire respect, but with a certain knowledge of the truth of what I say, that of the vast multitude of speeches made by Northern Democrats on the Texas question, in no one of them can he find a single sentence, sentiment, or word, to justify the sweeping charge he has made against the whole body of Democratic Senators and Representatives from the North who supported the annexation of Texas. On the contrary, sir, every Northern man who spoke in favor of the annexation of Texas expressly and indignantly repudiated the doctrine now imputed to them by the Senator from Massachusetts, and assigned entirely different, and in many instances directly opposite, reasons for supporting that measure. I am unable to comprehend that system of courtesy or morals which authorizes a distinguished Senator to charge a large body of public men, in the performance of high public duties, with having been influenced by motives different from those avowed by themselves at the time. And how is this charge attempted to be maintained? We are reminded that the then Secretary of State, (Mr. CALHOUN,) in his correspondence with Mr. Murphy, the

Charge d'Affaires in the Republic of Texas, and Mr King, Minister to France, boldly and frankly avowed that he was negotiating the treaty of annexation for the purpose and with the view of giving security to the slave interest in the States bordering upon Texas; and therefore, the Senator from Massachusetts boldly assumes that the Northern Democrats, one and all, supported the measure upon the grounds and for the reasons stated by Mr Calhoun. By this process of reasoning he attempts to fasten the charge not only upon the Senators and Representatives, but upon the great mass of voters—the whole democratic organization—including a vast majority of the people in the free States. This view is ingenious and plausible; but I submit it to the candor of the Senator whether it is fair and just? The Senator keeps out of view—no, he is incapable of that—he has forgotten one important chapter in the history of this question, which changes its whole character and overturns his position. I will refresh his memory. When President Tyler sent the treaty of Annexation to the Senate for ratification, this body, by resolution, called for all the correspondence upon the subject. When it was furnished to the Senate and disclosed to the world, who does not remember—what friend of Texas can ever forget—the excitement and universal burst of abhorence and indignation that a great and favorite national measure should have been butchered and destroyed by those entrusted with its consummation? Dismay, mortification, despondency, bordering on despair, was depicted in the countenance of every friend of Texas, while her enemies exulted with great joy that the administration of Mr. Tyler, and especially the Secretary of State, had placed the measure upon grounds that all America—yea, the whole civilized world, must repudiate, and thereby had surrounded it with an odium and prejudice that might enable them to defeat annexation forever. From that moment the friends of Texas abandoned the idea of annexation through the treaty-making power under the administration of Mr. Tyler. The treaty was indignantly and contemptuously rejected by the Senate in order to repudiate the Administration and all it had done and said in regard to Texas, and especially the correspondence with Messrs. King and Murphy, to which the Senator from Massachusetts has so often referred. The treaty was rejected; the Administration was justly and severely rebuked; the correspondence with Messrs. King and Murphy was repudiated; and here ends the chapter of the correspondence and treaty negotiated by the Administration of Mr. Tyler for the annexation of Texas. The Senator from South Carolina may think, as he said in his speech the other day, that he had more to do with the annexation of Texas than any other man in the country. I have no desire to deprive him of this consoling reflection. I would not have referred to it in a manner to deprive him of any of the credit he claims for himself, had he not volunteered his testimony to a certain extent in aid of the charges of the Senator from Massachusetts against the Northern Democracy. But, as a conclusion from the chapter of history to which I have referred, I must be permitted to say to him, in all sincerity and kindness, that, in my opinion, he did more to embarass the friends and encourage the enemies of Texas—more to hazard the success of the measure, to envelope it in clouds of odium and prejudice, than all other men in America. But for the weapons furnished in the correspondence alluded to, the enemies of annexation could not have rallied a majority against the measure in any one State of the Union.

Mr. President, I find I am diverging from the thread of my remarks. My object was to show that the treaty and correspondence, and all the acts of the Tyler Administration connected therewith, were rejected and repudiated before the Democratic party came to the support of the Texas annexation as a party. Having thrown off the incubus, and cut loose from all embarrassing alliances, the Democracy, North and South, came to the rescue, and annexed Texas upon broad national grounds, elevated far above, and totally disconnected from, the question of slavery—considerations which addressed themselves to the patriotism and pride of every American—considerations connected with the extension of territory, of commerce, of navigation, of political power, of national security, and glory, as one people, without especial reference to any particular section. These were the grounds upon which the Democratic party unfurled the Texas flag to the breeze in the Presidential election of 1844, and received an overwhelming verdict of the popular voice in our favor. The people decreed the annexation of Texas in that election, upon the grounds thus assumed, proclaimed, and defended by the great national Democratic party. It was the act of the people themselves, leaving to the representatives in Congress the duty of recording the verdict which their constituents had pronounced. Texas was annexed without any distinct reference to the question of slavery. It was supported, not as a measure of hostility nor of protection to that institution. It had no more connexion with it than the tariff, the census, the navigation laws, the public lands, or a great number of the questions of public policy which are the subjects of daily legisla-

tion. All of them have more or less to do with the question of slavery, because the laws are uniform in their operation, and consequently, in their practical application, relate to the slaveholding as well as the free States. So it was with the annexation of Texas. If I have shown an undue degree of sensitiveness under these attacks upon the Northern Democracy, I trust I will be excused when it is considered that I was one of those Northern Democrats who, in the House of Representatives, supported the annexation of Texas with all the zeal and energy of my nature.

Mr. Webster. With a touch of the Northwest—the Northwestern Democracy.

Mr. Douglas. Yes, sir, I am glad to hear the Senator say with a touch of the Northwest: I thank him for the distinction. We have heard so much talk about the North and the South, as if those two sections were the only ones necessary to be taken into consideration, when gentlemen begin to mature their arrangements for a dissolution of the Union, and to mark the dividing lines upon the maps, that I am gratified to find that there are those who appreciate the important truth that there is a power in this nation greater than either the North or the South; a growing, increasing, swelling power, that will be able to speak the law [illegible]ution, and to execute the law as spoken. That power is the country known as the great West, the valley of the Mississippi, one and indivisible from the Gulf to the Great Lakes, and stretching, on the one side and the other, to the extreme sources of the Ohio and Missouri, from the Alleghanies to the Rocky Mountains. There, sir, is the hope of this nation, the resting place of the power that is not only to control, but to save the Union. We furnish the water that makes the Mississippi, and we intend to follow, navigate, and use it until it loses itself in the briny ocean. So with the St. Lawrence. We intend to keep open and enjoy both of these great outlets to the ocean, and all between them we intend to take under our especial protection, and keep and preserve as one free, happy, and united people. This is the mission of the great Mississippi valley, the heart and soul of the nation and the continent. We know the responsibilities that devolve upon us, and our people will show themselves equal to them. We indulge in no ultraisms, no sectional strifes, no crusades against the North or the South. Our aim will be to do justice to all, to all men, to every section. We are prepared to fulfil all our obligations under the Constitution as it is, and determined to maintain and preserve it inviolate in its letter and spirit. Such is the position, the destiny, and the purpose of the great Northwest. Had the Senator from Massachusetts thus clearly discriminated in his printed speech, as he now intimates, that he did not intend to include my own section in his denunciations of the Northern Democracy, I should have left my political friends from the Northeast to have made their own vindication. But, sir, when he told us that there were about fifty Northern votes in the House of Representatives and thirteen in the Senate for the annexation resolutions, and then went on to particularize how many of them were from New England, and the residue from the other free States of the Union, I could not doubt that he intended to include the whole of the free States, my own among the others.

In immediate connexion with this, there is another portion of the speech of the Senator from Massachusetts which I deem it my duty to notice. Speaking of the annexation of Texas, he said:

"From that time the whole country from here to the western boundary of Texas, was fixed, pledged, fastened, decided to be slave territory forever, by the solemn guaranties of law."

In reply to this, I must be permitted to tell the Senator that I do not so understand the act, nor does it so read. If he had made this statement without referring to the resolutions of annexation, I should have supposed that his recollection had failed him; that he had been misinformed, mistaken, deceived in the matter. But, sir, when this statement is made with the resolutions before him, and the particular one bearing upon this point being read and incorporated into his speech, I know not what conclusion to draw. I refrain from expressing any opinion upon the subject. I will content myself with reading the resolution itself, from the gentleman's own speech.

"New States, of convenient size, not exceeding four in number, in addition to said State of Texas, and having sufficient population, may hereafter, by the consent of said State, be formed out of the territory thereof, which shall be entitled to admission under the provisions of the Federal Constitution. And such States as may be formed out of that portion of said territory lying south of thirty-six degrees thirty minutes north latitude, commonly known as the Missouri compromise line, shall be admitted into the Union with or without slavery, as the people of each State asking admission may desire; and in such State or States as shall be formed out of said territory north of said Missouri compromise line, slavery or involuntary servitude (except for crime) shall be prohibited."

In the face of this fundamental law we are told that "from here to the western boundary of Texas was fixed, pledged, fastened, decided to be slave territory *forever*, by the solemn guaranties of law!" Was there ever such a torturing of language? such a perversion of meaning? There is no guaranty—no pledge—no intimation even of the kind. The very reverse is the fact. While Texas remained an independent Power it was all slave territory from the Gulf of Mexico to the 42d parallel of latitude. By the resolution of annexation five and a half degrees of this slave territory, to wit, all between 36½ and the 42d parallels, were to become "fixed, pledged, fastened, decided to be" FREE, and not "slave territory forever by the solemn guaranties of law." Here is a territory, stretching across five and a half degrees of latitude withdrawn from slavery and devoted to freedom by the very act which the Senator has chosen to denounce and deride as the work of the Northern Democracy. *Nor* is this all. That part of Texas lying south of 36 deg. 30 min. is not "pledged to slavery" as stated by the Senator from Massachusetts

Mr. WEBSTER. I said that every acre of that territory, which from its nature and character is susceptible of slave cultivation, was fixed and pledged, mortgaged and hypothecated to slavery by the resolutions of annexation. I did not of course refer to the mountain country, different in its character, and where slaves cannot exist.

Mr. DOUGLAS. Yes, sir, there is a mountainous country not only north but south of 36 30, where a slave cannot live. That country, which from its nature and character is not susceptible of slave cultivation, is large enough to embrace at least three of the five States into which Texas may be sub-divided by the resolutions of annexation. And when the Northern Democrats are arraigned and condemned for having contributed to the extension of slavery, the five and a half degrees of latitude north of 36 30, for which provision was made to be converted from slave into free territory absolutely, and probably double that amount south of that line by the action of the people themselves when they come to form a State Constitution, ought to have been brought to the notice of the public and put to our credit in the statement of the account.

We have a right to complain, also, of that portion of the Senator's speech which relates to the country south of 36 deg. 30 min. The resolution does not provide that that portion, or any part of it, shall continue slave territory or become slave States. Such is not the reading, nor the intention, nor the fair construction of the resolution. It provides that the States to be formed south of 36 deg. 30 min. "shall be admitted into the Union *with* or *without* slavery, *as the people of each State asking admission may desire.*" Before the annexation of Texas all the territory in the Republic was included in one State, and subject to one uniform system of laws. Of that vast territory, a small portion, say one fourth, was capable of producing either sugar or cotton, and consequently adapted to slave labor; while the residue consisted of elevated table-lands, and high mountain ridges, with climate and productions totally unsuited to the health and employment of the slave. The population of Texas at that time was confined to the low lands, the sugar and cotton regions, where slave labor was profitably employed. The laws and institutions were adapted to the condition and wishes of the people by and for whom they were established. So long as Texas should remain one State, with a uniform system of laws, the preponderance of population and political power residing in the lower country, the institution of slavery must have been fastened upon the people of the upper country against their will, and without their consent. In view of this probable contingency, the resolution of annexation provides for the division of Texas into any number of States not exceeding four, in addition to the present one, and that each of those States shall be received into the Union with or without slavery, as it shall desire. But for this provision, no part of Texas south of 36 deg. 30 min could ever become free, so long as there was a slave raising sugar or cotton on the low lands. Under it any one of those new States can become free if it chooses, whenever it shall be admitted into the Union. How many of these new States, south of 36 deg. 30 min., in the event that four shall be created, shall become free, is a matter of opinion, which time alone can decide. If there is any thing of merit or responsibility in the expression of individual opinions, I am willing to hazard my own, and place it on record by the side and in opposition to that of the Senator from Massachusetts, that whenever four new States shall be created within the limits of Texas, at least two, and probably three of them, including that north of 36 deg. 30 min. will be *free* States, under the resolutions of annexation and by virtue of the choice of the people themselves. This opinion is not new to me, nor original with myself. If my memory serves me right, the distinguished Senator from Kentucky (Mr. CLAY) expressed the same opinion in his celebrated Raleigh letter in 1844, and I know that it was the general impression among those best informed on the subject at the time Texas was annexed. Subsequent events, together with all the information which has

since been developed upon this subject have served to strengthen this conclusion. Hence I assert that the final character of this country is not fixed by a fundamental law. It is no more pledged to slavery than it is to freedom. The only effect of the resolution of annexation is to remove the restriction which must have deprived the people of any portion of that territory from establishing free institutions if they desired, and to secure to them that privilege in each one of the new States.

Mr. WEBSTER. I stated that this was slave territory, and that the States formed out of it all have a right to come in as slave States if they choose, but that they could not be formed either as free or slave States without the consent of Texas. Well, I suppose, reasoning upon that line of argument, that Texas would be unwilling to admit free States out of her territory.

Mr. DOUGLAS. I thank the Senator for his explanation, for it furnishes a conclusive refutation of his most serious charge against the Northern Democracy. His charge was that the resolutions of annexation contained a pledge, binding in honor, law, and conscience upon him and his Whig associates, to bring into the Union four new slave States. Now, when the fact is made probable, if not certain, that a majority of those new States will be free and not slaveholding, we are told that Texas will not consent to the division. Well, sir, suppose she does withhold her assent, what becomes of the Senator's complaint that the Democracy are responsible for the admission of four new slave States in the Union? His mode of avoiding the force of my argument that they will be free States, is a conclusive refutation of his charge against the Northern Democracy. I confess that I participate in the apprehension suggested by the Senator from Massachusetts that Texas will not consent to the subdivision provided for in the resolutions of annexation. This is the only doubt, only fear, I have, or have ever entertained, upon the subject. I think there is an implied obligation on the part of Texas to give her consent at the proper time, and when the proposed subdivisions shall contain the requisite population. The greatest difficulty I apprehend, will be in laying out the subdivisions and adjusting the boundaries, so as to separate the planting region, the country adapted to the culture of sugar and cotton, from the farming and mineral country on the uplands and in the valleys and mountains, from which slavery is excluded by the laws of nature and of physical geography, if I may be permitted to use the emphatic language of the Senator himself, when referring to New Mexico and California. I have expressed some apprehension lest Texas might not consider herself bound, under the resolutions of annexation, to give her assent to the subdivision. I wish not to be misunderstood upon this point. I have full confidence that Texas will observe good faith in the execution of every portion of the compact. The only question is, whether she will consider that portion of the compact relating to new States as obligatory or merely discretionary on her part. That she will find it more consistent with her interest and convenience to subdivide than to remain one State, I have no doubt, and hence we may naturally conclude that her assent will be readily and cheerfully given, unless she should be inclined to believe that it was her duty to her sister States of the South to withhold it, in order to prevent the increase of the number of free States in the Union. Whatever may be the prevailing opinion now in the different sections of the Union as to the expediency of the subdivisions of Texas, I think I hazard but little in the prediction that when the time arrives for giving our assent on behalf of the United States, opposition will be much more likely to arise in the South than in the North. But I must pass on and notice another paragraph in the speech of the Senator from Massachusetts. For greater certainty as to his meaning I will read it:

"Sir, that body of Northern and Eastern men who gave those votes at that time, are now seen taking upon themselves, in the nomenclature of politics, the appellation of the Northern Democracy. They undertook to wield the destinies of this empire, if I may call a republic an empire, and their policy was, and they persisted in it, to bring into this country all the territory they could. They did it under pledges, absolute pledges to the slave interest in the case of Texas, and afterwards they lent their aid in bringing in these new conquests."

"Under pledges, absolute pledges to the slave interest." These are bold assertions. Where are those pledges to be found? Where are the evidences of them? What were the terms, and by whom given?

Mr. WEBSTER. When a resolution was brought in here by the Senator from Georgia (Mr. BERRIEN) against continuing the war for the acquisition of territory, it was negatived by the votes of the Northern Democracy?

Mr. DOUGLAS. Well, does that vote prove that it was done under pledges to the slave interest? It only proves that the Whigs who voted for the resolution were oppos-

ed to the acquisition of California and New Mexico, and that the Democrats who voted against it were in favor of the acquisition. That is all a process, and that we are proud to confess. The Democracy claim California and New Mexico as the rich fruits of their labors. We acknowledge with pride that we stood by our country in a just war against a cruel and perfidious foe, and that the acquisition of those Territories are some of the substantial results of our policy. And because we annexed Texas, and thereby provided for the exclusion of slavery from five and a half degrees of latitude in which it then had a legal existence, and at the same time made provision for its exclusion hereafter by the action of the people themselves from a large portion of the residue, and because we supported our country's cause in time of war, and in consequence acquired five or six hundred thousand square miles of territory from which slavery is excluded "by the arrangement of things by the Power above us," the Senator very generously infers that it must necessarily all have been done "under absolute pledges to the slave interest." What a logical deduction! How irresistible the inference! How can it fail to work conviction in the mind of every candid man after reading the following description of the country from the Senator's own speech:

"Now, as to California and New Mexico, I hold slavery to be excluded from those Territories by a law even superior to that which admits and sanctions it in Texas. I mean the law of nature, of physical geography, the law of the formation of the earth. That law settles forever, with a strength beyond all terms of human enactment, that slavery cannot exist in California or New Mexico. Understand me, sir; I mean slavery as we regard it; slaves in gross, of the colored race, transferable by sale and delivery like other property. I shall not discuss the point, but leave it to the learned gentlemen who have undertaken to discuss it; but I suppose there is no slave of that description in California now. I understand that *peonism*, a sort of penal servitude, exists there, or rather a sort of voluntary sale of man and his offspring for debt, as it is arranged and exists in some parts of California and Mexico. But what I mean to say is, that African slavery, as we see it among us, is as utterly impossible to find itself or to be found in Mexico as any other natural impossibility. California and New Mexico are Asiatic in their formation and scenery. They are composed of vast ridges of mountains of enormous height, with broken ridges and deep valleys. The sides of these mountains are barren, entirely barren; their tops capped by perpetual snow."

And again he says:

"I look upon it, therefore, as a fixed fact, to use an expression current at this day, that both California and New Mexico are destined to be free, as far as they are settled at all, which I believe, especially in regard to New Mexico, will be very little for a great length of time; free by the arrangement of things by the Power above us. I have therefore to say, in this respect also, that this country is fixed for freedom, so as many persons as shall ever live in it, by as irrepealable and more irrepealable a law than the law that attaches to the right of holding slaves in Texas; and I will say further, that if a resolution or a law were now before me to provide a Territorial Government for New Mexico, I would not vote to put any prohibition into it whatever. The use of such a prohibition would be idle as it respects any effect it would have upon the Territory; and I would not take pains to re-affirm an ordinance of Nature, nor to re-enact the will of God. And I would put in no Wilmot proviso for the purpose of a taunt or a reproach."

Well, sir, one would suppose that "the slave interest" must feel itself under eternal obligation to the Northern Democracy for having brought such a country into this Union, in opposition to the combined forces of Northern and Southern Whiggery, as shown by the votes on Mr Brinkerhoff's resolution! The Northern Democracy can hardly hope for forgiveness for such a sin against freedom, and such a service to the slave power.

But, Mr. President, I am exceedingly gratified that the Senator from Massachusetts has discovered that a prohibition of slavery in those Territories is wholly useless and unnecessary; that it would be as "idle," so far as any effect upon slavery is concerned, as "to re-affirm an ordinance of nature," or "to re-enact the will of God." But I remember well, and the Senator reminded us of it the other day, lest the important fact might be forgotten, that before a Whig Convention at Springfield, Massachusetts, in September, 1847, he made a speech in favor of the Wilmot proviso as applicable to these very Territories. On that occasion he claimed the proviso as his own "invention," asserted a priority of discovery by a period of nine years over all others, and filed his *caveat* against infringement of his patent by Mr. Wilmot and all other "more recent discoverers," and forbid their use of it upon the ground that it was "not their thunder." From that moment the Whig party throughout the free States of the Union seem to

have taken it for granted that the exclusive right to use this valuable invention of their worthy and distinguished champion had inured to them. It was forthwith introduced into successful operation in all their town meetings, and caucuses, and county and state conventions, as a wonderful intellectual machine, whereby men's judgments could be controlled, political opinions moulded, and elections controlled so as to elevate none but Whigs to office. It worked like a charm, and produced the most extraordinary and prodigious results in the shape of political capital and artificial thunder, notwithstanding the patent may have been violated by the two ex Senators of whom the Senator from Massachusetts has complained, and a few members of the House of Representatives. It has wrought miracles in the political world—revolutionized whole States—changed the moral, intellectual, and political capacities of experienced politicians, and has even created the wisest and most profound statesmen out of men who "had not given a vote in forty years." These are a few of the incomprehensible blessings conferred upon this glorious Republic by the "saving grace" of that indescribable invention of the Senator from Massachusetts called the Wilmot proviso. But, sir, I fear that the distinguished Senator from Massachusetts has shared the fate of other great inventors and benefactors who have preceded him. It has usually been the unfortunate lot of such men to see others enjoying the fruits of their labor.

The Senator has recently made another discovery, however, which I think, is destined to give him quite as much substantial reputation as the Wilmot proviso, although it may not contain as many of the elements of political "thunder." He has discovered that the prohibition of slavery in the Oregon bill as adopted in the House, on the motion of Mr. Winthorp, and incorporated in the territorial bill of 1846, was an "entirely useless, and, in that connexion, an entirely senseless proviso." He has also discovered that "such a prohibition" in territorial bills for California and New Mexico "would be idle, as it respects any effect it would have upon the territory;" that "slavery is excluded from those Territories by a law even superior to that which admits and sanctions it in Texas—the law of nature, of physical geography—the law of the formation of the earth; that law settles forever, with a strength beyond all terms of human enactment, that slavery cannot exist in California and New Mexico;" that it would be as idle to prohibit slavery there as it "would to re-affirm an ordinance of nature," or, "to re-enact the will of God." Yes, sir, these things have been discovered by the distinguished Senator within the last few days—during the present session of Congress—since the accession of the Whig party to the power and patronage of the Federal Government. They have suddenly become great truths, upon which it is deemed entirely safe for a free people to act and rely with perfect security. Well, I am induced to think the Senator is right in all this; indeed I have no doubt upon the subject. His positions are sustained by the observation and experience of all men familiar with those countries, by all the information we possess, or that could be collected. My only regret is, that he did not make this discovery prior to the last Presidential election. It is well that he has made it now, but it would have been better if made and proclaimed then. I am not aware that the law of nature—of physical geography—the law of the formation of the earth, has changed materially since the election of General Taylor to the Presidency; but it has occurred to me that the ordinance of nature and the will of God have become much more potent in impressing certain great truths upon the minds of men than before that important event occurred.

The important fact, so clearly illustrated and demonstrated by the distinguished Senator in his late speech, that the Territories of California and New Mexico were made free by the law of nature, was distinctly stated and elaborated by Mr Buchanan in his "Harvest Home letter," and adopted and incorporated into the Nicholson letter by Gen. Cass. I do not recollect of ever having heard that the Senator from Massachusetts then agreed with Mr Buchanan and Gen Cass upon this point, or that he united with the Northern Democracy in the effort to place a statesman in the Presidential chair who held and openly avowed the precise sentiments which he now so ably advocates in our legislation for the Territories acquired from Mexico. I may have been in error, and, if so, would be happy to be corrected; but I always supposed that the Senator from Massachusetts joined with the universal Whig party of the North in decrying and deriding the doctrine of non-intervention, based upon the ordinances of nature and the will of God, as the worst form of Locofoco subserviency to the slave-power, whereby it was designed to open the door for the admission of slavery into territory now free. If such were not the opinions then, if the powerful influence of his name and intellect were not exerted to the utmost to impress this opinion upon the popular mind, I confess that great injustice has been done him, not only by me, but "the rest of mankind." If he and the party of which

he is the great Northern leader had then come to the support of those elevated, noble, and patriotic doctrines which are now so boldly proclaimed and ably vindicated by him, the question would have been settled at once and forever, quietly, peaceably, and satisfactorily to all portions of the Union. But, sir, such a settlement at that time would not have suited the purposes of the Whig party. They were in a woful, pitiful minority. Having rendered themselves odious to the people by taking sides with the public enemy in a state of war, they were anxious to retrieve their political fortunes, and to be returned to power. This could not be done by open and direct means. It required equivocation and indirection. The first step was to select a man who had endeared himself to the people by his services in prosecuting the war as the Presidential candidate of the active war party. Then the slavery agitation was to be kept up, and fomented, and stimulated to the highest point of phrenzied excitement. Gen. Taylor was to withhold his opinions and maintain a deathlike silence upon it, while his partisans were to represent him to the people in each section of the Union as holding opinions in accordance with the prevailing sentiment in that section. At the North he was represented as being sufficiently orthodox upon free soilism, being ready cheerfully and cordially to give his approval to the Wilmot proviso, while at the South he was represented as being devotedly attached to their peculiar institutions by all the ties of nativity, of habit, association and interest. Thus the friends of Gen. Taylor succeeded in making the people believe in each section that his opinions and principles harmonized with their own.

And here I will notice a remark of the Senator from New York, (Mr. SEWARD,) in his speech delivered a few days since. He went out of his way to get an opportunity of bearing his individual testimony to the fidelity of the Northern Democracy to what he and his associates are pleased to call the slave interest. He assured the Southern Senators that the Democracy of the North were and ever had been the faithful and reliable allies of the slave power under all circumstances and in every emergency. His kindness in this respect is fully appreciated. His motive is not difficult to comprehend. It was necessary for him to say thus much in order that his speech might appear to be consistent with his representations to the people during the Presidential canvass. Did he not support the election of Gen. Taylor? And with a view to induce the people to vote for him, did he not pledge Gen. Taylor to the approval of the proviso?

Mr. SEWARD. The Senator will allow me to answer this question—not from any consequences that may result to myself at all, however. I never did pledge Gen. Taylor to anything. I expressed my own belief that Gen. Taylor, if elected President of the United States, would leave the question of the organization of new Territories to Congress; and that, in my own judgment, founded altogether on the means of information in possession of everybody, Gen. Taylor would not veto a bill which would be passed by Congress; which bill to be passed by Congress, I said, would be one containing the proviso, and no other.

Mr. DOUGLAS. That comes pretty near it. The Senator made no pledges; he only made representations. He did not say that General Taylor would do so and so, but expressed the opinion that he would, and succeeded in making the people of New York believe that the opinion was well founded. I will now ask the Senator from New York if the people of that State could ever have been induced to vote for Gen. Taylor, if they had not been made to believe that he would have approved the proviso?

Mr. SEWARD. I think not. I think undoubtedly the result would have been otherwise.

Mr. DOUGLAS. The Senator thinks not. Gen. Taylor, then, could not have received the electoral vote of New York but for the impression, which the Senator contributed to produce in the minds of the people, that he would sanction and approve the proviso. General Taylor, in his annual message, and indeed in one or two special messages since, has plainly and boldly recommended non action; has declared himself opposed to all legislation for the Territories. Now, non-action is non-intervention, so far as the question of slavery is involved. On this point Gen. Taylor and Gen. Cass occupy precisely the same ground. In other respects, even in regard to the Territories, they differ widely and materially. For instance, Gen. Cass is in favor of *action, so far as* to institute and establish Governments for the Territories, but *of non-action* upon the question of slavery. Gen. Taylor is in favor of *non-action* also upon the slavery question, but goes further, and opposes the establishment of any Territorial Governments. They agree, therefore, upon one point, and that is, that no law should be passed upon the subject of slavery, and consequently *that the* PROVISO *should not be adopted*

Now, sir, what becomes of the Senator's representations and arguments and appeals to the people of New York, by which he made them believe that General Taylor was in

favor of the proviso, and, in consequence of that belief, induced them to do what, by his own confession, they otherwise never would have done—to vote for him and make him President of the United States? One thing is clear, the people of New York were cheated out of their votes; yes, another, Gen. Taylor was elected by fraud. Who perpetrated the fraud? Who deceived the people? The Senator from New York tells us that he made the representation; he expressed the opinions; he gave them the sanction of his name, the weight of his authority, that he was one of the agents who infused this false impression into the minds and hearts of the people of his own State, and thereby induced them to give their votes for a man for whom they would never have voted if the truth had been told them. The Senator does not distinctly inform us whether he did these things on his own account and upon his individual responsibility, or upon the authority of another. This point is important in order to detect and expose the guilty party. The circumstances would seem to throw the responsibility upon one or the other of two important personages. The one is the eminent citizen who occupies the white house by virtue of this fraud, according to the Senator's confession; the other is the Senator himself. The President, according to all appearances, has vindicated himself by the direct and unequivocal disavowal in his several messages of the sentiments and opinions imputed to him by the Senator from New York. Under this view of the case the responsibility rests with all its force and odium upon the Senator from New York. But, sir, the choice, or rather the defeat of the choice of the people, of a President of the United States, is not the only result of the system of double dealing within the limits of the State of New York. The members of the Legislature were elected on the same day, and the same influences which secured the electoral vote to General Taylor, gave the Whigs a majority in the Legislature, and that majority elected the gentleman (Mr. SEWARD) a member of this body. He, too, therefore, is now enjoying the substantial results of that system of double dealing and deception which was practised upon the people of New York, with the view of placing General Taylor in the Presidential chair and himself in the Senate of the United States. Under these circumstances, I submit whether it would not have been more becoming in that Senator to have vindicated himself against the injurious inferences that are likely to be drawn from these facts than to have attempted to fix odium and prejudice upon the Northern Democracy by representing them as the faithful ally of the slave power? It looks as if this unfounded charge against the Democratic party was gotten up for the purpose of diverting public attention from his own conduct. He may have peculiar reasons for wishing to avoid too rigid a scrutiny into the terms of the alliance between him and the Administration, and especially the means by which both were elevated to power, and the mode in which patronage and spoils have been distributed. No one who heard his speech could have failed to note the ominous silence he observed upon all points involving the opinions and action of General Taylor and his Cabinet upon the slavery and proviso question. He did not venture to express it as his own opinion, as he says he did in New York during the canvass, that General Taylor would approve the proviso. He did not do this: nor did he sound the alarm and tell them that they had been deceived and betrayed by either himself or General Taylor. No; he did neither of these things. He contented himself with representing the Northern Democrats to their constituents as the faithful allies of the slave power, while his Southern Whig friends are in the daily habit of charging the same Northern Democracy with being the most radical free soilers and abolitionists. It seems that the same course of proceeding which was resorted to to defeat General Cass for the Presidency, and to prevent a peaceable and satisfactory adjustment of this vexed question, is to be continued with the view of sustaining the power of the Administration.

Mr. HALE. The Senator says if his friend from Michigan had been elected this question would have been settled. Will he be kind enough to tell us how?

Mr. DOUGLAS. Yes, sir. It would have been upon the principle of non-interference, by the action of the people themselves. California, with her free constitution, would have been received into the Union as a State long ago, and the usual Territorial Government would have been established for the residue of the country. The whole country would have remained free, as it is now, by the existing laws of the land, by the will of the people who inhabit it, and by the laws of nature, climate, and production. The adjustment would have been effected quietly, peaceably, and satisfactorily. No offence would have been given to any portion of the Union. We would have had none of this irritating agitation, experienced none of this painful excitement. We would have heard not a word of Southern rights and Northern aggressions, much less the harsh and discordant sounds of disunion. This is, in my opinion, the settlement we would have witnessed, had the regular nominee of the Democratic party been elected President of the United States. Is the senator from New Hampshire satisfied on this point?

Mr. HALE. I am satisfied that such is your opinion, but not that such is the fact.

Mr. DOUGLAS. The Senator is not satisfied as to the fact. I will remind him of an instance in which he has been mistaken before upon this very subject, and I presume he will now gladly acknowledge his error. Last year I introduced a bill for the admission of all the country acquired from Mexico, by the treaty of peace, into the Union as one State, reserving the right to form new States out of any portion of said territory lying east of the Sierra Nevada Mountains. The Senator from New Hampshire opposed that bill upon the ground that, if the proviso was not adopted, and the people were allowed to decide the question of slavery for themselves, it would be a slave State. Well, sir, the proviso was not adopted, and the people were allowed to decide the question for themselves, and California has presented to us a constitution prohibiting slavery. The Senator then doubted that this fact would happen—he can no longer doubt that it has happened. I then predicted that the people of California would prohibit slavery, and ask to come into the Union as a free State, but the Senator shook his head and doubted. In vain I recapitulated to him the arguments in favor of freedom, the physical formation of the country, its climate, productions, elevation above the sea, the feelings and prejudices of the inhabitants, all favorable to the exclusion of slavery. He still doubted; no, he did not doubt; he was positive, absolutely certain, that slavery would inevitably go there, if not prohibited by an act of Congress. Less than one short year has corrected this error, and it may take twelve months longer to correct his errors of judgement in regard to the residue of the country. However, the signs are decidedly favorable. He was then positively certain, he now only doubts the fact. Yet there is one thing of which I must be permitted to remind him; it is this: If my bill of last session had become the law of the land—which it certainly would have done if he had not united his forces with those of the Senator from South Carolina (Mr. CALHOUN) to defeat it—the whole of the territory acquired from Mexico would, at this moment, have been dedicated to freedom forever, by a constitutional provision.

Mr. President, so much has been said in the course of this debate about the Wilmot proviso in connexion with these Territories, that I propose to inquire what it is, and why it assumed that name? We have been asked whether we would vote for the Wilmot proviso in territorial bills for Utah or Deseret, and New Mexico, and the inquiry has even been made whether we will vote for the admission of California into the Union with the Wilmot proviso in her constitution? The Wilmot proviso in a territorial bill or a State constitution! What a confusion of ideas—a perversion of terms! What is the Wilmot proviso? And why is the name of Mr. Wilmot attached to the measure? One would naturally suppose that it was an original idea, conceived, matured, and brought forward for the first time by Mr. Wilmot. And so it was. It was not a prohibition of slavery in a State constitution adopted by the people themselves. Such provisions and prohibitions were to be found in the constitutions of nearly all the free States of this Union before Mr. Wilmot was born. It was not a prohibition of slavery in a territorial bill, to continue so long as the territory existed, and leaving the people to do as they pleased when they should be admitted into the Union as a State. This was not the Wilmot proviso; for such a provision was to be found in the ordinance of 1787, and in each successive territorial bill for the Northern section of the Union from that period up to the time Mr. Wilmot first saw the light, and during his infancy and youth even up to 1846, when Mr. Winthrop, of Massachusetts, offered a like provision, in the shape of a proviso to the Oregon bill, one year before Mr. Wilmot's voice was ever heard in the halls of Congress. This proviso, proposed by Mr. Winthrop in 1845, became the law of the land as a part of the Oregon bill in August, 1848, and is the same that the distinguished Senator from Missouri, in his celebrated Jefferson city speech, denominated as the Jefferson or Benton proviso. So far as my information extends, Mr. Wilmot never, in the whole course of his natural life, brought forward a proposition to prohibit slavery in bills for the government of the Territories. What, then, is, or I should say, was the Wilmot proviso? for it has been dead several years, without the hope of resurrection. I will refer to the Journals of the House of Representatives and Senate. In August, 1846, during the war with Mexico, President Polk sent a message to Congress asking an appropriation of money to enable him to negotiate a treaty of peace, limits, and boundaries, referring to the precedents in the cases of Louisiana and Florida, and intimating that it was his purpose to acquire a considerable amount of territory. The message was referred to the Committee of the Whole on the state of the Union, and in the committee a bill was proposed in accordance with the recommendations of the message, which has since been known in the political history of the country as the "two million bill."

To this bill, Mr. Wilmot of Pennsylvania, offered an amendment, in the shape of the proviso, which I will read from the Journal.—[See Journal of the House of Representatives for 1845-6, page 1283:]

"*Provided*, That, as an express and fundamental condition to the acquisition of any territory from the Republic of Mexico by the United States, by virtue of any treaty which may be negotiated between them, and to the use by the Executive of the moneys herein appropriated, neither slavery nor involuntary servitude shall ever exist in any part of said territory, except for crime, whereof the party shall first be duly convicted."

This is the original Wilmot proviso, and it assumed that name by common consent, because it was a nondescript, the like of which had never been seen or heard of in the political history of this country. It differed from all other provisions which had ever been proposed upon kindred subjects in many important particulars. It was an attempt on the part of the House of Representatives, by a majority vote, to control the exercise of the treaty-making power, which the Constitution had vested solely in the President and Senate, to be decided by a two thirds vote. It proposed to deprive the people of the Territory, even when they should become a State, of the right of moulding and forming their domestic institutions to suit themselves, and to make them the subject of negotiation and treaty stipulation with a foreign Power. The prohibition of slavery was not to be limited to the period during which the people should remain under a territorial organization, but was to continue forever, even after they should be received into the Union as States. It proposed to acquire the country on the "express and fundamental condition" that slavery should never exist therein. The purchase was to be conditional and the title conditional, dependant upon that fact. If the country had been acquired upon that condition and had been received into the Union as a State, as we propose to receive California, and subsequently, by an amendment of her constitution, the people had chosen to recognise and sanction the institution of slavery, the faith of this Government would have been irrevocably pledged to a foreign nation, either to have abolished slavery by force in that sovereign State, or to have turned her out of the Union and sent her back to Mexico; either of which would have been a plain and palpable violation of the Constitution of the United States. The Wilmot proviso, therefore, proposed to pledge the faith of this nation in the most solemn manner, in a certain event, which I confess was not likely to happen, to subvert and destroy the constitutional rights of one or more of the new States of this Union. Such was the character of the proviso, according to its plain terms and reading. But, sir, I am prepared to go further, and show that this was the common understanding, the object, design, the fixed purpose of those who supported the Wilmot proviso.

I hold in my hand the authenticated copy of the first series of resolutions adopted by the Legislature of New York in favor of the Wilmot proviso, presented to the Senate by Gen. Dix, and ordered to be printed. I will read the two resolutions bearing on this point:

"*Resolved*, (if the Assembly concur,) That if any territory is hereafter acquired by the United States, or annexed thereto, *the act by which such territory is acquired or annexed, whatever such act may be, should contain an unalterable fundamental article or provision, whereby slavery* or involuntary servitude, except as a punishment for crime, shall be *forever* excluded from the territory acquired or annexed;

"*Resolved*, (if the Assembly concur,) that the Senators in Congress from this State be instructed, and that the Representatives in Congress from this State be requested, to use their best efforts to carry into effect the views expressed in the foregoing resolutions."

These resolutions were adopted in the Senate of New York on the 27th of January, and in the Assembly on the 1st of February, 1847, being the first session of the Legislature after Mr. Wilmot had first introduced the proviso into Congress. There is no room for equivocation or doubt as to the plain meaning of these resolutions. The Legislature of New York did not instruct the Senators from that State to vote for a prohibition of slavery in any territorial bill which Congress might pass for the government of the Territories, even in Oregon, Nebraska, and Minesota, much less in the territory to be acquired from Mexico.

This resolution contemplates no such case. It provides that "THE ACT *by which such territory is acquired or annexed, whatever such act may be, should contain* an UNALTERABLE FUNDAMENTAL ARTICLE," &c., for the prohibition of slavery. The prohibition was to be in the *treaty* acquiring the country, and *not* in the territorial bills for its government. The prohibition was to be an "unalterable fundamental article," whereby slavery should "*be* FOREVER *excluded from the territory acquired or an-*

nexed. It was to remain in force not only while a territory, but "forever." It was to be "unalterable," so that the people could not change it, if they desired to do so, after they became a State of the Union. I could, if necessary, detain the Senate from this time until sunset in reading other memorials and petitions of the same character, to show that this was the common, general, universal understanding of the Wilmot proviso at that day.

But, sir, there was still another objection to the Wilmot proviso of an insuperable character, entirely independent of the slavery question. It would have had the inevitable effect, if indeed it was not the settled purpose of many of its original supporters, to have defeated the acquisition of any territory at all. It requires no argument to prove, and but little faith to believe, that under it California and New Mexico could never have been obtained. As the Senate was then constituted, the slaveholding States had a clear majority in this chamber, Iowa and Wisconsin not then being represented here. Bearing this fact in mind, with the evidence of public opinion in regard to the proviso in the Southern sections of the Union which we have witnessed and are now witnessing, who can believe that a constitutional majority of two-thirds could have been obtained in favor of any treaty containing the Wilmot proviso? No man can, for a moment, suppose that such a treaty could possibly have been ratified. I think I speak advisedly when I repeat that it could not have received the vote of any one Senator representing a slaveholding State; while I am sure that many Northern Senators would have felt themselves constrained by their conscientious convictions, entirely independent of the question of slavery, to have voted against it upon the grounds I have stated. The probabilities are, therefore, that such a treaty, instead of being ratified by a two-thirds vote, as required by the Constitution, could not have received the sanction of one third of the members of this body. A knowledge of this fact undoubtedly gave the proviso a large portion of its original support. The Whigs as a party were openly opposed to the acquisition of any territory, whether slave or free. It will be recollected that the Senator from Massachusetts, (Mr. WEBSTER,) boasted of this fact, and cited the vote on Mr. BERRIEN'S resolution as official evidence that it was a party question, the Whigs being opposed and the Democrats in favor of the acquisition of territory. This being the feeling of the Whig party, they seized upon the Wilmot proviso as a scheme well devised and admirably adapted to defeat all acquisitions. Southern Whigs even voted for the Wilmot proviso—some under the yeas and nays, and many more in the Committee of the Whole, where no journal is kept, and justified their votes afterwards upon the ground that they were given with no view to the prohibition of slavery, but for the sole purpose of defeating the acquisition of any territory from Mexico. Had the scheme succeeded, the hopes of the Whigs would have been fully realized. The pride and prejudices of the South would have been appealed to to withhold all appropriations for the prosecution of the war—to compel the Administration, in dishonor and disgrace, to withdraw the armies and terminate hostilities without indemnity for our injuries and losses, in money or territory. Support of the Wilmot proviso, therefore, was opposition in the most insidious, dangerous, and fatal form to the acquisition of any territory whatever. For this reason, if there was none other, and without the slightest reference to the question of slavery, I hold that it is the duty of every Democrat, North and South—of every friend of the late Administration—of every supporter of the Mexican war, and of every advocate of California and New Mexico, to have opposed the Wilmot proviso with all the power and energy with which God had invested him. We did oppose it with firmness and resolution, until it was defeated forever by the conclusion of a treaty of peace without any such condition or provision in it. California and New Mexico were acquired by an absolute and *not a conditional* title, with the right to dispose of and govern them as the people might determine under the Constitution of the United States. From the day on which the ratifications of that treaty were exchanged by the two countries, the Wilmot proviso became "an obsolete idea," having died an eternal death, without the hope of resurrection. Having acquired the country by an absolute and unconditional title, it became subject to the jurisdiction of this Government, the same as Oregon, Minesota, Nebraska, and the Indian territories; and when we came to institute governments for them, it might or might not be deemed wise and expedient to incorporate in them the ordinance of '87 or the amendment of Mr. Winthrop to the Oregon bill in 1845. I could never have voted for the Wilmot proviso under any emergency or conceivable state of facts; and yet, under peculiar circumstances, which have been fully explained on another occasion, I did vote for the amendment of Mr. Winthrop in 1845, and also for the Oregon bill of 1848, containing a similar provision under the name of the ordinance of '87. The two measures were entirely dissimilar, involving different principles, and deriving their authority

from separate sources of power. The one was a crude, ill digested scheme for the attainment of an end, deemed desirable, in a mode unauthorized by the Constitution and subversive of the principles and policy of the Government; the other is a simple, plain provision of law, older than the Government itself, and, in my opinion, entirely unnecessary, at the same time that it is free from insuperable constitutional difficulty, with the sanction of precedents under almost every Administration to warrant its adoption.

How these two propositions should have become confounded in the popular mind, the one with the other, and especially how the name of the Wilmot proviso, which has never received the sanction of any one department of this Government, should have become fastened upon the ordinance of '87, which had a legal existence before the Constitution was adopted, and has since been so frequently re enacted, is a problem the solution of which would be curious and amusing. My time will not allow me to give a history of it now. I will venture to suggest, however, that the purpose had been formed of organizing a third party under the banner of the Wilmot proviso, which would be able to control the politics of the free States, if not the political destinies of the whole country. The movement had succeeded admirably. The Legislatures of several States, New York among the number, had endorsed it in terms; and there seemed to be a fair prospect that, if the question could be kept open and the agitation continued, this third party would soon overwhelm both of the other great parties of the country, and embody under its banner a majority of the voters in the Northern States. But, unfortunately, just at that point of time when the prospects of this third party were supposed to be the brightest and the hopes of its leaders the most buoyant, the question was settled forever by the treaty of peace without the Wilmot proviso. The political disappointment was too great to be submitted to. The political temptation to keep up the organization under the same name, by the adoption of a measure involving entirely different principles, and to which the insuperable objections urged against the proviso did not apply in the minds of many, was too strong to be resisted by such patriots. It would not do to strike the flag and change the colors, lest the rank and file might desert and join new leaders. On the other hand there may have been, in another section of the Union, a class of men who had political objects to be accomplished by keeping up this same agitation. They had succeeded in securing the passage of resolutions by most of the Legislatures of the Southern States, pledging themselves and their people to resist the Wilmot proviso in the event of its adoption. They had never been able to bring the Southern people to the point of resistance to the ordinance of 1787, or the amendment of Mr. Winthrop, or any other law prohibiting slavery in a Territory while it should remain a Territory, and leaving the people to do as they pleased when they should become a State. Policy, therefore, required that the name, against which the Southern people were all committed, should be retained, if the agitation was to be continued. With such patriotic motives to impel and control the action of men, there was no difficulty in perpetuating the name of the Wilmot proviso, and of fastening it upon the ordinance of 1787, and even upon the prohibition of slavery in the constitution of a State adopted by the people themselves.

Now, sir, I believe I have concluded all I have to say of a political or partisan nature. The remarks I have made of that nature seemed to be necessary to the vindication of my political associates and friends, with whom I have acted, and to the justification of my own course in times gone by. I now come to the examination of some of those topics which have caused so much excitement here and elsewhere. I allude to those very interesting questions called "Southern rights" and "Northern aggressions." For the sake of convenience, and in order to comprehend precisely the points at issue. I will read a passage from the speech of the distinguished Senator from South Carolina, containing a summary of these Northern aggressions, so far as they relate to the Territories:

"The first of the series of acts by *which the South was deprived of its due share of the Territories* originated with the Confederacy which preceded the existence of this Government. It is to be found in the provision of the ordinance of 1787. Its effect was to exclude the South entirely from that vast and fertile region which lies between the Ohio and the Mississippi rivers, now embracing five States and one Territory. The next of the series is the Missouri compromise, which excluded the South from that large portion of Louisiana which lies north of 36° 30', excepting what is included in the State of Missouri. The last of the series excluded the South from the whole of the Oregon Territory. All these, in the slang of the day, were what are called slave territories, and not free soil; that is, territories belonging to slaveholding powers, and open to the emigration of masters with their slaves."

It will be observed that the cause of complaint in each of the cases specified is predicated on the assumption that "the South was deprived of its due share of the territe-

ries." Upon this point I wish to be distinctly understood. I differ from the Senator in toto. I deny the very proposition he assumes, and upon the assumption of which he brings all his complaints against the North. "The South," he says, "was deprived of its due share of the territories." What share had the South in the territories? or the North? or any other geographical division unknown to the Constitution? I answer, none; none at all. The territories belong to the United States as one people, one nation, and are to be disposed of for the common benefit of all, according to the principles of the Constitution. Each State, as a member of the confederacy, has a right to a voice in forming the rules and regulations for the government of the territories; but the different sections, North, South, East, and West, have no such right. It is no violation of Southern rights to prohibit slavery, nor of Northern rights to leave the people to decide the question for themselves. In this sense no geographical section of the Union is entitled to any share of the territories. The Senator from South Carolina will therefore excuse me for expressing the opinion that all of his complaints against the North, under this head, are predicated upon one great fundamental error—the error of supposing that his particular section has a right to have a "due share of the territories" set apart and assigned to it.

But I must proceed to the consideration of the particular acts of aggression of which the Senator complains. And first of the ordinance of 1787. It is a little remarkable that the constitutional rights of the South should have been invaded by an act adopted before the Constitution was made; and, especially, when we take into consideration the fact, stated by the Senator from Massachusetts in his speech the other day, that the ordinance of '87 was adopted by the unanimous vote of every Southern State, there being but one vote cast against it in the Confederation, and that was a Northern vote. The first act of Northern aggression seems, therefore, to have been adopted by the united vote of the entire South. This ordinance, the Senator from South Carolina informs us, had the effect "to exclude the South entirely from that vast and fertile region which lies between the Ohio and Mississippi rivers, now embracing five States and one territory." Is not the Senator mistaken in his facts? My information is that it had no such effect. On the contrary, I am informed that at the time the constitution of the State of Ohio was formed, at least one-half of the people of that State, and probably more, were natives of and emigrants from Southern States; that fully two-thirds of the people of Indiana, at the time she adopted her constitution, were natives of the South; and that a much larger proportion of the people of Illinois, at the time she was admitted into the Union, were also from the South. These facts do not indicate that the ordinance had the effect to exclude the South entirely from those Territories. Let us next inquire what effect it had upon slavery there. The ordinance, it will be remembered, was adopted in 1787; the very year, I believe, in which the first settlement was made at the mouth of the Muskingum; one year before the first house was erected where Cincinnati now stands; in short, when the whole country was a vast unpeopled wilderness, with the exception of the small French settlements at Kaskaskia, Cahokia, Vincennes, and a few other points. The object of the ordinance, therefore, was to prohibit, not to abolish, slavery in the Northwest Territory. And as an evidence that the ordinance has produced the effect intended by its framers, we have repeatedly been referred to those five free States carved out of that territory. True, these five States are now free, with provisions in the constitutions of each prohibiting slavery in all time to come. But was it the ordinance that made them free States? The census returns show that there were 191 slaves in Illinois in 1840, and more than 700 in 1830. I do not recollect precisely how many there were in the other States; but I remember there was quite a number in Indiana. How came these slaves in Illinois? They were taken there under the ordinance and in defiance of it. Illinois was a slave Territory. The people were mostly emigrants from the slaveholding States, and attached to the institution by association, habit, and interest. Supposing that the soil, climate and productions of the country were adapted to slave labor, they naturally desired to introduce the institution to which they had been accustomed during their whole lives. Accordingly, the Territorial Legislature passed laws, the object and effect of which was to introduce slavery under what was called a system of indentures. These laws authorized the owners of slaves to bring them into the Territory, and there enter into contracts with them by which the slaves were to serve the master during the time specified in the contracts or "indentures," which were usually for a period reaching beyond the life of the slaves; and in the event the slaves should refuse to enter into the indenture, after being brought into the Territory, the master was allowed thirty days to take them back again, so as not to lose the right of property in them. Under the operation of these laws Illinois became a slaveholding Territory under the ordinance, and in utter defiance of its plain and palpable provision. The Convention which assembled at Kaskaskia in 1818, to form the consti-

tution of the State of Illinois, was composed, to a considerable extent, of slav[illegible]e, representing a slaveholding constituency. This body of men had become satisfied by experience that the climate and productions of the country were unfavorable to slave labor, and that the institution was prejudicial to their interests and welfare. Accordingly, we find three important principles established in the constitution which they framed, and with which Illinois was admitted into the Union:

1st. The right of property in all slaves or indentured persons then in the State was confirmed.

2d. That no slaves should thereafter be brought into the State.

3d. Provision for a gradual system of emancipation, by which the State should eventually become entirely free. This system of emancipation had been in operation twenty-two years, at the date of the census of 1840, when, as I have already remarked, there were 331 slaves returned in that State. It is to be hoped that of that number the census of this year will show that not one remains a slave.

Now, sir, what becomes of the complaint of the Senator from South Carolina, that the ordinance of '87 excluded the South entirely from that vast fertile region between the Ohio and Mississippi rivers. The facts to which I have adverted show clearly that the ordinance had no practical effect upon it. Under the ordinance slavery existed there to a greater or less extent; and since the ordinance has been superseded by the State governments, slavery has gradually disappeared under the operation of laws adopted and executed by the people themselves. These facts furnish a practical illustration of that great truth, which ought to be familiar to all statesmen and politicians, that a law passed by the National Legislature to operate locally upon a people not represented, will always remain practically a dead letter upon the statute book, if it be in opposition to the wishes and supposed interests of those who are to be affected by it, and at the same time charged with its execution. The ordinance of '87 was practically a dead letter. It did not make the country to which it applied practically free from slavery. The States formed out of the territory northwest of the Ohio did not become free by virtue of the ordinance, nor in consequence of it. Those States became free, and must always maintain their freedom if they expect to preserve it, by virtue of their own will, solemnly recorded in the fundamental laws of their own making and execution. That is the source, and the only safe reliance of their freedom. In free countries laws and ordinances are mere nullities, unless sustained by the hearts and intellects of the people for whom they are made, and by whom they are to be executed. I trust, therefore, that I have satisfied the Senator from South Carolina that the ordinance of '87, of which he complains as the first in the series of Northern aggressions, did the South no harm, and the North no good.

The next in the series of aggressions complained of by the Senator from South Carolina is the Missouri compromise. The Missouri compromise an act of Northern injustice, designed to deprive the South of her due share of the Territories! Why, sir, it was only on this very day that the Senator from Mississippi despaired of any peaceable adjustment of existing difficulties, because the Missouri compromise line could not be extended to the Pacific! That measure was originally adopted in the bill for the admission of Missouri by the union of Northern and Southern votes. The South has always professed to be willing to abide by it, and even to continue it as a fair and honorable adjustment of a vexed and difficult question. In 1845 it was adopted in the resolutions for the annexation of Texas, by Southern as well as Northern votes, without the slightest complaint that it was unfair to any section of the country. In 1846 it received the support of every Southern member of the House of Representatives, Whig and Democrat, without exception, as an alternative measure to the Wilmot proviso. And again, in 1848, as an amendment to the Oregon bill, on my motion, it received the vote, if I recollect right, and I do not think that I can possibly be mistaken, of every Southern Senator, Whig and Democrat, even including the Senator from South Carolina himself, (Mr. CALHOUN.) And yet we are now told that this is only second to the ordinance of '87, in the series of aggressions on the South.

Mr. BUTLER. I think you are mistaken about it. I don't think my colleague (Mr. CALHOUN) voted for it.

Mr. DOUGLAS. I do not think that I can be mistaken upon this point—that Mr. CALHOUN voted for my motion to insert the Missouri compromise in the Oregon bill. He voted for my amendment, and then did not vote at all, or voted against the bill on its passage. I cannot be mistaken on the material point, which was upon the adoption of my amendment. For, having offered this amendment, first in the House of Representatives and subsequently in this body, I was denounced in certain sections as a slavery extensionist, a dough-face—and many other kind and polite terms of similar import were applied to me, and my name was published in certain newspapers with black marks

drawn around it, with the view of concentrating popular odium upon me and the party to which it is my pride and pleasure to belong. And now, sir, the very measure which drew all these anathemas and denunciations upon my devoted head, is now represented by the Senator from South Carolina as a measure of deadly hostility to Southern interests; a measure calculated to limit and diminish the area of slavery more than any act of the Government during its whole history. Be this as it may, I think that Southern gentlemen should not complain of the measure after having given it their united vote on several occasions.

Mr. Butler. Will the gentleman allow me a single word? Will he do justice to the Southern gentlemen by saying that they voted for the Missouri compromise as a peace offering, after they had found the country brought into jeopardy by the Wilmot proviso? They acquiesced in it as a peace offering—as a compromise—and not as giving up their rights.

Mr. Douglas. I so understand it.

Mr. Butler. One word concerning my colleague, (Mr. Calhoun.) I think the Senator from Illinois (Mr. Douglas) is right in saying that my colleague voted for the amendment to the Oregon bill, but throughout the whole discussion I think he took occasion to say that, though he acquiesced in it, he did not approve of it.

Mr. Douglas. I take great pleasure in saying that I believe the Southern gentlemen did vote for the Missouri compromise as a peace-offering and a compromise. It was offered by me and received by them in that spirit. But I must be permitted to say that it seems somewhat extraordinary that that which they all voted for as a compromise and a peace-offering should now be denounced as an act of Northern aggression. Because it was tendered and received as a peace-offering, it should never be called an act of aggression. In regard to the effects of the Missouri compromise upon the question of slavery I have but a few words to say. I do not think that it did have any practical effect on that question, one way or the other. Missouri was admitted into the Union with slavery. This must necessarily have been done, whether the compromise had been effected or not, for there was no rightful mode of preventing it. The Louisiana treaty, under which Missouri was purchased from France, stipulated for the admission into the Union according to the Constitution of the United States. The faith of the nation was pledged, and must have been redeemed. Their right to come into the Union as a State being conceded, it is very clear that they possessed the right to form for themselves just such a constitution as they pleased, provided it did not conflict with the Constitution of the United States. Arkansas was then a slave Territory, and no one seriously thought of changing its character in that respect, except by a vote of the people interested. The substance of the Missouri compromise line, therefore, was that west of Missouri and Arkansas slavery should be prohibited north of 36° 30'. Thus slavery was prohibited by the positive enactment of law in all that region of country extending from 36 degrees 30 minutes to the forty-ninth degree of north latitude. But, while this was the express provision of the statute, slavery was as effectually excluded from the whole of that country, by the laws of nature, of climate, and production, before, as it is now by act of Congress. The Missouri compromise, therefore, had no practical bearing upon the question of slavery—it neither curtailed nor extended it one inch. Like the ordinance of '87, it did the South no harm—the North no good—except that it had the effect to calm and allay an unfortunate excitement which was alienating the affections of different portions of the Union.

The next and last of the series of complaints against the North was "the exclusion of the South from the whole of the Oregon Territory." It is difficult to comprehend what the Senator from South Carolina means, to what act of this Government he refers, when he speaks of the South having been excluded from the whole of the Oregon Territory. The law of 1848, establishing a Territorial Government for the people of Oregon, is the only act of Congress in which slavery is named. It is true that that act did contain a clause prohibiting slavery; but it will hardly be said by any one familiar with the history of that Territory and its legislation, that it had the effect to exclude slavery from the Territory. That effect had been produced, by law and in fact, years before by the action of the people themselves. It will be recollected that several thousand American citizens took up their residence in Oregon during the continuance of the treaty of "joint occupation," as it was called in those days, which precluded the establishment of a regular Government either by the United States or Great Britain. In the absence of any other Government to afford them protection, these people established one for themselves, which was known as the Provisional Government of Oregon. By one of the fundamental articles of that Government slavery was forever prohibited in that Territory. This prohibition expressed the unanimous sentiment of the people, and was adopted without one dissenting voice. The people of Oregon lived quietly and happily under

this Provisional Government for a period of about twelve years, if my recollection serves me right, before Congress passed the Territorial bill of which the Senator now complains. That bill, so far as the question of slavery was concerned, did nothing more than to re-enact and affirm the law which the people themselves had previously adopted and rigorously executed for the period of twelve years. It was a mere dead letter, without the slightest effect upon the admission or exclusion of slavery; and, in the language of the distinguished Senator from Massachusetts, in his late speech, it was "an entirely useless, and, in that connexion, entirely senseless thing."

Suppose this prohibition of slavery had been stricken out, and the bill of 1848 had been passed without any provision upon the subject, as the Senator from South Carolina at that time proposed, and now thinks ought to have been the case, would not the legal and practical effect have been precisely the same. The laws of the Provisional Government would have remained in force, unless repealed by the people, and there is no reason to suppose that a people who had voluntarily prohibited slavery by a unanimous vote, and sustained the prohibition without a murmur, for twelve years, would have changed their policy suddenly, and without any ostensible reason. How, then, can the exclusion of the South or of slavery from Oregon be set down to the account of Northern aggressions and Southern grievances? The North had no hand in it; nothing to do with it. It was the deliberate and exclusive act of the people of Oregon themselves. It was done in obedience to that great democratic principle that it is wiser and better to leave each community to determine and regulate its own local and domestic affairs in its own way. It was done in the same way that slavery has recently been prohibited in the new State of California—by the free and united action of the people inhabiting the country. This principle of action first introduced free institutions upon the continent. It will be recollected that at the time of the declaration of independence every one of the original thirteen were slaveholding States, and at the period of the adoption of the Constitution of the United States there were twelve slaveholding and one free State. Since that time, by the operation of this great principle of allowing each State and separate community to decide this question for itself, six of these twelve slaveholding States have abolished slavery and established freedom; while Vermont and Maine, which were carved out of those States, have also become free States. And, notwithstanding the ordinance of 1787, the Missouri compromise, and all the kindred measures, under whatever name, all the new States which have been admitted into the Union, with clauses in their constitutions prohibiting slavery, became free States by virtue of their own choice, and not in obedience to any congressional dictation. I undertake to say that there is not one of those States that would have tolerated the institution of slavery within its limits, even if it had been peremptorily required to have done so by an act of Congress. It is a libel upon the character of those people to say that the honest sentiments of their hearts were smothered and their political action upon this question constrained and directed by an act of Congress. Will the Senators from Ohio, Indiana, Michigan, Wisconsin, and Iowa make any such degrading admission in respect to their constituencies? I will never blacken the character of my own State by such an admission, and I know my colleague too well to harbor the thought that he will allow it to be said of her with impunity.

The Senator from South Carolina, after going through with the catalogue of Northern aggressions and Southern grievances, propounded the important interrogatory, whether the Union could be saved, and then gave the answer, which I will read:

"But can this be done? Yes, easily; not by the weaker party, for it can of itself do nothing, not even protect itself; but by the stronger. The North has only to will it to accomplish it; to do justice by conceding to the South an equal right in the acquired territory, and to do her duty by causing the stipulations relative to fugitive slaves to be faithfully fulfilled; to cease the agitation of the slave question, and to provide for the insertion of a provision in the Constitution, by an amendment, which will restore to the South in substance the power she possessed of protecting herself before the equilibrium between the sections was destroyed by the action of this Government. There will be no difficulty in devising such a provision, one that will protect the South, and which at the same time will improve and strengthen the Government instead of impairing and weakening it."

The first condition is that the North is to "do justice" by conceding to the South an equal right in the acquired territory. This phrase, that the North should do justice to the South, is repeated several times in the course of the Senator's speech. To do justice! There is something offensive in the very expression—implying that we are not now, and have not always been willing to do justice to every portion of the Union, and to every State and individual in it. If it be the serious desire of the South to preserve peace and harmony with us, they should at least use courteous and respectful language towards us. There is no people on earth more scrupulous in the observance of the principles of justice

in all the relations of life than the Northern States of this Union. We are prepared to recognise all your rights and to perform all of our duties under the Constitution. We may differ sometimes as to the extent of those rights and duties, and whenever such differences of opinion do arise we are always disposed to examine and discuss them in a spirit of fairness and kindness, and with no other desire than to ascertain and do justice. Now you require us to do justice by conceding to the South an equal right in the acquired territory. We do concede this to the fullest extent. We claim nothing for ourselves as one of the geographical divisions of the Union, and are entirely willing to place you on equality with us in this respect. Our position is that neither the North nor the South, as such, have any rights there at all.

But you say that we propose to prohibit by law your emigrating to the Territories with your property. We propose no such thing. We recognise your right, in common with our own, to emigrate to the Territories with your property, and there hold and enjoy it in subordination to the laws you may find in force in the country. Those laws in some respects differ from our own, as the laws of the various States of this Union vary, on some points, from the laws of each other. Some species of property are excluded by law in most of the States, as well as Territories, as being unwise, immoral, or contrary to the principles of sound public policy. For instance, the banker is prohibited from emigrating to Minnesota, Oregon, or California, with his bank. The bank may be property by the laws of New York, but ceases to be so when taken into a State or Territory where banking is prohibited by the local law. So ardent spirits, whiskey, brandy, all the intoxicating drinks, are recognised and protected as property in most of the States, if not all of them; but no citizen, whether from the North or South, can take this species of property with him and hold, sell, or use it at his pleasure, in all the Territories, because it is prohibited by the local law—in Oregon by the statutes of the Territory, and in the Indian country by the acts of Congress. Nor can a man go there and take and hold his slave for the same reason. These laws, and many others involving similar principles, are directed against no section, and impair the rights of no State of the Union. They are laws against the introduction, sale, and use of specific kinds of property, whether brought from the North or the South, or from foreign countries.

The next condition prescribed by the Senator from South Carolina as one of the terms upon which the Union can be preserved and the South continue to remain within it, is that the North will "do her duty by causing the stipulations relative to fugitive slaves to be faithfully fulfilled." Here the proposition is asserted that it is the duty of the *Northern States* under the Constitution to *cause* the stipulation relative to fugitive slaves to be fulfilled. In the early history of the Government such was the opinion and practice of the Northern States. They enacted laws for this purpose, and made it the duty of their own officers to execute them. But soon Congress interfered and claimed for itself the power to carry that provision of the Constitution into effect by its own legislation. The power was thus wrested from the hands of the State authorities and swallowed up by Congress. A conflict necessarily arose between the laws of Congress and those of the States upon this subject, when the Supreme Court of the United States put an end to the controversy, by deciding that the right and duty of providing for the execution of that clause of the Constitution was in Congress and not in the States. The North, as in duty bound, acquiesced in the decision, which stripped them of the authority, and of course absolved them from the responsibility of doing that which the Senator from South Carolina now claims at their hands as one of the conditions for the preservation of the Union. There may be defects, and doubtless are, in existing acts of Congress upon this subject. They should of course be remedied, and I must remind the Senator that it is as much his duty as mine to devise the remedy, and of the South as well as of the North to apply it. Upon this subject of the surrender of fugitives from service, there may be some ground for complaint, and undoubtedly is, but in my opinion it has been greatly exaggerated. We in Illinois find no difficulty in preserving friendly relations with our neighbors in Missouri and Kentucky. We live near enough to each other to understand and appreciate the characters, conduct, and motives of each. Hence, comparatively speaking, we have no difficulties. So of the people of Western Virginia, Maryland, and Delaware, with their neighbors across the line. One would naturally suppose that here, all along the line bordering on the free and slave States, would be the scene of all the excitement, violence, and outrage of which we hear so much. But no. We hear not a word about disunion and Southern Conventions from these people. They see and understand the causes and extent of the evil, and know how much reality there is in it. But when we behold Vermont and South Carolina, New Hampshire and Alabama, Connecticut and Louisiana, their sufferings are utterly intolerable! And this for the best of reasons. They have very little or no personal knowledge of each

other, their habits, condition, and institutions. They are liable to be imposed upon by any man who is mischievous or unprincipled enough to practice the imposition, and the prejudices of each, the result of ignorance, prepare their minds to receive as true the grossest slander against the other. Hence we find that the war rages furiously between these extremes, whose positions preclude the idea of their having any real grievances involved in the struggle, or being able to comprehend the true merits of the controversy. It is as impossible to get a Carolinian to comprehend and appreciate the character of the people and institutions of the North, as it is for an abolitionist to understand the true condition of things in the South.

I now pass to the consideration of the remaining condition insisted on by the Senator from South Carolina as essential to the preservation of the Union:

"To provide for the insertion of a provision in the Constitution, by an amendment, which will restore to the South in substance the power she possessed of protecting herself before the equilibrium between the sections was destroyed by the action of this Government."

Without reference to the merits of the proposed amendments, I am willing to hasard the prediction that the Northern States will consent to no amendment of the Constitution which shall be presented under a threat to dissolve the Union. We are not in the habit of making and changing constitutions in that way. Whenever you have any amendment to propose, we will examine it carefully and dispassionately, and if we approve we will adopt it, and if not, we will reject it. We are willing to abide by the Constitution as it is, and perform with fidelity, every duty and obligation it devolves upon us. We will protect all your rights under the Constitution as it was made by our fathers; but when you go beyond that, and demand your rights under the Constitution as it *is to be*, we know not what you mean.

When the amendment to the constitution alluded to by the Senator from South Carolina shall be presented to us in due form, we will be better able to judge of its merits. I think the Senator has said enough to indicate pretty clearly the idea he intended to convey. As I understand him, he desires such an amendment as shall stipulate that in all time to come there shall be an equilibrium between the free and slaveholding States; in other words there shall always be as many slaveholding as free States in this Union. In my opinion, the adoption and execution of such a constitutional provision would be a moral and physical impossibility. In the first place, it is not to be presumed that the people of the free States would ever agree to such an amendment to the Constitution; and secondly, if they should, it would be impossible to carry it into effect. I have already had occasion to remark that at the time of the adoption of the Constitution there were twelve slaveholding States and only one free State, and of those twelve, six of them have since abolished slavery. This fact shows that the cause of freedom has steadily and firmly advanced, while slavery has receded in the same ratio. We all look forward with confidence to the time when Delaware, Maryland, Virginia, Kentucky, and Missouri, and probably North Carolina and Tennessee, will adopt a gradual system of emancipation, under the operation of which those States must in process of time become free. In the mean time we have a vast territory stretching from the Mississippi to the Pacific, which is rapidly filling up with a hardy, enterprising, and industrious population, large enough to form at least seven such new free States, one half of which we may expect to see represented in this body during our day. Of these, I calculate that four will be formed out of Oregon, five out of our late acquisition from Mexico, including the present State of California, two out of the Territory of Minnesota, and the residue out of the country upon the Missouri river, including Nebraska. I think I am safe in assuming that each of these will be free Territories and free States, whether Congress shall prohibit slavery or not. Now, let me inquire where are you to find the slave territory with which to balance these seventeen free Territories, or even any one of them? Will you answer me in Texas? I have already shown that if Texas should be divided into five States, according to the resolutions of annexation, at least three of them would in all probability be free, and for that reason, among others, I have expressed my serious apprehensions that Texas would never consent to the subdivision. Will you answer me in Mexico? If you do, at least twenty out of the twenty-two will be free States, if the "law of the formation of the earth, the settlement of nations, or the will of God," is to be respected, or if the doctrine shall prevail of allowing the people to do as they please. I repeat the question, where is the territory adapted to slave labor, out of which new slave States can possibly be formed? There is none—none at all. We must look at things as they exist, and talk plainly and frankly one to another about them. These may be unpalatable truths to some gentlemen, but it is well that their attention should be called to them, that

they may examine them and decide for themselves whether they are not in reality undeniable truths.

Then, sir, the proposition of the Senator from South Carolina is entirely impracticable. It is also inadmissible, if practicable. It would revolutionize the fundamental principles of the Government. It would destroy the great principle of popular equality, which must necessarily form the basis of all free institutions. It would be a retrograde movement in an age of progress that would astonish the world. The people of the United States will never entertain the proposition, much less adopt it. I speak in positive and general terms, perhaps too general, as I have no authority to speak on this question for any one but myself.

March 14, 1850.

Mr. DOUGLASS resumed and concluded his speech as follows—

I regret, Mr. President, that I am compelled to trespass further on the time of the Senate. It was my intention and desire to have concluded yesterday. When I yielded to a motion to adjourn I was discussing the proposed amendment of the Senator from South Carolina, to the Constitution, to restore and perpetuate the equilibrium between the free and the slaveholding States. This I regard as entirely inadmissible—as morally and physically impossible, in any event.

I now pass to another question which has been introduced into this debate. In the course of a desultory discussion some weeks ago, I came under obligation to the Senator from Mississippi (Mr. DAVIS) to establish the proposition, that at the time of the acquisition of California and New Mexico slavery was prohibited by law throughout the Republic of Mexico, and that, by virtue of the treaty and the laws of nations, that prohibition continues to be the law of the land in the Territories acquired, and must remain in force forever, unless repealed by competent authority. Since that discussion took place the Senator from Mississippi has made a speech upon the subject, in which he referred to and quoted all the laws of Mexico bearing upon that point, with the exception of the provision in the constitution of 1843, confirming the previous laws, and prohibiting slavery in all Mexico. From this it would seem that the point at issue between us was in regard to the effect of these laws, and not as to their existence. If the attention of the Senator had been called to the constitutional provision to which I have alluded, I must presume that there would have been no difference of opinion between us, even in regard to the effect and validity of those laws. In the mean time the distinguished Senator from Missouri (Mr. BENTON) has made an argument upon the question in which he reviews all the laws and authorities upon the subject, and establishes the position for which I contended in a manner so conclusive as to remove all doubt upon it. Any thing that I might add would weaken rather than strengthen the force of that argument. I will therefore adopt the speech of the Senator from Missouri on this point, and ask the Senator from Mississippi to accept it in discharge of my promise. Upon the other branch of the proposition—to wit, that the laws of Mexico prohibiting slavery now remain the laws of the land in California and New Mexico, by virtue of the treaty and the laws of nations—I will quote only one authority, and leave the case to rest upon it.

I read from the case of the American Insurance Company et al *vs.* Canter, in 1st Peter's Reports, pages 542-'4:

"The usage of the world is, if a nation be not entirely subdued, to consider the holding of the conquered territory as a mere military occupation until its fate shall be determined at the treaty of peace. If it be ceded by the treaty, the acquisition is confirmed, and the ceded territory becomes a part of the nation to which it is annexed, either on the terms stipulated in the treaty of cession, or on such as its new master shall impose. On such transfer of territory, *it has never been held that the relations of the inhabitants with each other undergo any change.* Their relations with their former sovereign are dissolved, and new relations are created between them and the Government which has acquired their territory. The same act which transfers their country transfers the allegiance of those who remain in it; and the law, which may be denominated political, is necessarily changed, *although that which regulates the intercourse and general conduct of individuals remains in force* until altered by the newly-created power of the State."

Here we find that "it has never been held that the relations of the inhabitants with each other undergo any change." The "law denominated political" only is changed. What that political law is will appear by the following passage from the same decision:

"It has been already stated that all the laws which were in force in Florida while a province of Spain, those excepted which were political in their character, which terminated

the relations between the people and their sovereign, remained in force until altered by the Government of the United States."

This is the doctrine of the Supreme Court of the United States, in an opinion delivered by Chief Justice Marshall, and concurred in by all the judges. I could quote many other decisions of the same court, to the same effect, but this will suffice. Thus it appears that, when we acquired New Mexico and California, the act or treaty which transferred to us the territory also transferred with it all the laws in force at the time except those relating to the allegiance of the inhabitants to the Government of Mexico. This rule is of course subject to the further limitation of such laws as were inconsistent with the Constitution of the United States, and the fundamental principles of our Government. Of this character is the law creating an established church as a part of the government of the State. That and all other laws inconsistent with our form of Government became void by the treaty. But a law adopted by the people themselves, prohibiting slavery, cannot be deemed of that character. Slavery, then, is prohibited in all the country acquired from Mexico by a fundamental law—a constitutional provision adopted by the inhabitants of the country, and which must continue in force forever, unless repealed by competent authority. This doctrine is not new with me, nor is it now advanced by me for the first time. I advanced it the first time the Wilmot proviso was ever proposed in the House of Representatives as an amendment to the two million bill. On this point I trust I will be excused for reading a passage from that admirable work, Wheeler's Biographical and Political History of Congress. Speaking of myself, the author, who was at that time a reporter in the House, says:

"He (Mr. DOUGLAS) opposed the incorporation of the Wilmot proviso into the two and three million bills; he believed the proper time had not come for action on that subject. It was unnecessary at this time, he argued, to agitate a question which practically might never arise. *Slavery was now prohibited in Mexico. If any portion of that country should be annexed to the United States, without any stipulation being made on that point, the existing laws would remain in force so far as they were consistent with our Constitution, until repealed by competent authority.* That authority must be either Congress or the people of the Territory. If Congress, then the North have the power in its own hands; if the people of the Territory, they would be left to decide the question for themselves, according to their own wishes."

I now come to consider California as a State. The question is now presented whether we will receive her as one of the States of this Union. And, sir, why should we not do it? The proceedings, it is said, in the formation of her constitution and State Government have been irregular. If this be so, whose fault is it? Not the people of California certainly, for you have refused, for the period of two years, to pass a law in pursuance of which the proceedings could have been regular.

Surely you will not punish the people of California for your own sins; sins of omissions, if not of commission. The people of California were entitled to a government, ought to have had one, and it is not their fault that one was not given to them. Nor was it my fault. It will be recollected by every Senator present, and I trust the fact will not be forgotten by the country, that more than one year ago, in December, 1848, I brought in a bill to authorize the people of California to form a constitution and State Government, and to come into the Union. Had that bill passed, the proceedings would have been regular. Every thing would have been prescribed by law, and done according to law, so that the most fastidious could have found nothing to complain of. The people of California would then have done in obedience to law precisely what they have done without law. The previous assent of Congress would have been given, the qualifications of voters defined, the mode of conducting elections prescribed, the time and place for the Convention to assemble fixed, and, in short, all the rules and forms of proceeding would have been established by law, according to the most approved precedents. I pressed the passage of that bill upon Congress during the whole of the last session, from the first week until the last day. But it failed; and why? The arguments urged against it were, among others, that it was unnecessary; there was no satisfactory evidence that the people of that country desired it; that if they did, they could form their constitution, and present themselves for admission at the session, without an act of Congress authorizing it just as well as with. Precedents were referred to for the purpose of showing that such a law was wholly unnecessary, as in the case of Vermont, Tennessee, Maine, Michigan, and perhaps others, where nothing of the kind was required. Well, the bill was defeated, and the people of California, acting upon these suggestions, and relying upon the precedents cited, have formed a constitution and presented themselves for admission. Now they are to be told that they cannot be received because Congress failed

to pass such a law, and the proceedings are irregular without it. I do not precisely understand what is meant by the irregularity of these proceedings. I have examined the precedents in all the cases in which new States have been admitted into the Union, from Vermont to Wisconsin. I will not go over them in detail, and point out the peculiarities in each case; that duty has been well performed by the Senator from Maine, in his speech a few days ago. Those precedents show that there is no established rule upon the subject; each case stands upon its own peculiar state of facts.

There are several cases in which there have been no previous assent of Congress—no census taken—no qualifications for voters prescribed, and, in short, when they were situated precisely as California now is. There is no rule, therefore, and consequently can be no irregularity. I think, however, that the practice which has generally obtained, recently, of prescribing all these things by law, is a wise one, and should be adhered to in all cases where it can be done without too great inconvenience. My bill of last session conformed to this practice, and was designed to settle the slavery and Texas boundary questions in a manner and upon principles which ought to have been satisfactory to all portions of the Union. It was useless to attempt to conceal the fact that the slavery question was the disturbing element which kept up the agitation and deprived the people of the Territories of law and government. The North desired that the whole country should remain forever free, and, above all, that slavery should not be extended by any act of this Government into territory now free. The South naturally desired that the country should be open to their peculiar institutions, but without any well-founded expectation that slavery would ever go there. The South said, however, that while such were her wishes in this respect, she did not insist on any legislation in her favor—that she only insisted upon the point of honor that she should not be excluded by an act of Congress. That she would obscurely submit to be excluded by the natural course of events—by the law of nature, of climate, and of production—or by the decision of the people inhabiting the country. But she denied the right of this Government to exclude her peculiar institutions from the Territories of the United States, when the people of those Territories were not represented here—that it was a violation of the Constitution, and of the principles of our institutions. This was the point of honor presented by the South. It is unnecessary here to inquire how far it was well founded. My own opinions upon that point have been already sufficiently expressed. It is apparent that her demands at that time only extended to the establishment of a principle, and not to the accomplishment of any practical result favorable to her own wishes or interests under the principle. On the other hand, it was equally clear that the North could have refrained from any legislation upon the controverted point without the slightest hazard that slavery would ever be extended to one inch of that country. This was the state of the controversy when I brought in my bill last session to authorize the people of California to form a constitution and come into the Union as a State. It should be borne in mind that my first proposition was to bring the *whole* of the country acquired from Mexico into the Union *as one*, reserving the right to subdivide all that portion of it east of the Sierra Nevada Mountains into as many States as Congress should determine. I frankly avowed my opinions at that time, that under this bill the whole country would come in as a free State, and that each of its parts would be free, whenever a division should take place. Free, however, not by virtue of an act of Congress—for I do not think that Congress ever made any country free—but by the decision of the people inhabiting the country, the only sure guaranty of freedom. I have no faith in that kind of freedom which depends upon the arbitrary enactments of a power not elected by, nor responsible to, the people governed. I have no confidence in your unalterable provisions in favor of freedom, so far fastened upon a people in opposition to their wishes and against their supposed interest. Slavery can never be exterminated, liberty can never be established and perpetuated by such means. The desire for free institutions must first find an abiding place in the hearts of the people and shows itself in all their works. When a whole people will stand together and unite in the establishment of free institutions for themselves, there is reason to hope that their children will maintain and preserve the liberties bequeathed to them by their fathers. These were the principles avowed by me when urging that bill upon the Senate last session, and when I ventured the prediction that slavery would be forever excluded under it. I called upon the North to support it, because under it we would secure all that we could desire—the exclusion of slavery from the whole country by a constitutional provision. I also called upon the South to give it her support upon the ground that, while the country was destined to be free at all events, and under whatever measure that might pass, this was free from the objections used against others, because it seemed to them the point of honor. I then thought, and still hold, that when there are two modes of accomplishing the same result, no matter how desirable, and the one is obnoxious and offensive to a large portion of the community,

while the other is not, any right-minded man—any man who has a heart to respect the feeling of his neighbor, and patriotism enough to desire the peace and harmony of his country, is bound to adopt that mode which is least objectionable, and would impart the slightest wound." For these reasons, I thought that it was the duty of every man who desired to see this agitation cease, and to restore peace and quiet to the country, at the same time that it furnished governments to the Territories, to pass some such bill as the one proposed.

I make no complaint that the bill did not pass; I deem it unfortunate; but in this I may be mistaken. The majority decided against me, and I bowed in deference to their decision. I refer to it now, not by way of boasting of my own superior sagacity, nor for the purpose of arraigning the conduct of others, but with the sole view of placing myself right here and elsewhere on this question. For a time there seemed to me a reasonable prospect that the bill would receive the support of both sections of the Union, and become a law by common consent. But at length the extreme Southern section began to make demonstrations against it, upon the ground that, inasmuch as it would bring one free State into the Union at once, and soon be divided into several others of the same character, it would destroy the equilibrium, and give the preponderance of power to the free over the slaveholding States in this Union, now and forever. On the other hand, the extreme wing of Northern free-soilism, those who assume to lead the advance guard of the great Northern wing against the extension of slavery, professed to have discovered, just about that time, that, if the people of California were allowed to decide the question for themselves, slavery would be extended over the whole of the country acquired from Mexico, and that this mammoth State of California would eventually be subdivided into half a dozen slave States. This view of the subject carried a majority of one section against the measure, while about the same proportion of the other section opposed it for decidedly the opposite views. Thus the bill was defeated by a union between those two extremes, whose movements and schemes have always been so perilous to the harmony and safety of the Union.

Yes, sir, the extremes met upon common ground—harmonized and fraternized upon this question. They were colaborers in the same work, with a common object, the defeat of the State bill, and then justified their conduct to their respective constituencies by assigning opposite and contradictory reasons. They defeated the measure—prevented an adjustment—deprived the people of the Territories of governments—kept the question open—continued the agitation—and produced the present excitement; these are some of the results of their joint labors. Well, one short year has elapsed, and the people of California have settled the slavery question for themselves. We all know what the decision is; and we all know whose predictions have been verified, and whose have been falsified. In time, a very short time, has settled this disputed point. It is no longer a matter of conjecture or controversy what would have been the result under the bill of the last session, had it become a law. Slavery is now prohibited by a provision in the constitution of the State of California, covering less than one-third of the territory acquired from Mexico, and we are told it is necessary to apply the ordinance of '87 to the residue of the territory in order to prevent the extension of slavery. No such necessity would have existed if that bill had passed, for then the constitution of California would have applied to the whole of the territory acquired from Mexico. The prediction of the Southern gentlemen have been fully verified to the extent that the people have acted, while the prophecies of the other extreme have been falsified in every particular. The people have decided in favor of freedom, and slavery has been excluded to the extent of the present limits of the State of California, and would have been excluded from the whole country had the bill of last session become a law. I was read out of the Democratic church by the self styled Free-Soil Democracy for introducing this bill. They denounced me as a "dough-face" and slavery extensionist, and the bill as a cunningly devised scheme to extend slavery, in obedience to the dictation of the slave power. These denunciations upon me have been kept up even to the present moment, notwithstanding the action of the people of California. The class of Northern men to whom I have alluded not only opposed the bill as a measure calculated to extend slavery, but they ridiculed the idea, when I expressed it as my deliberate opinion that slavery would be excluded from the whole country under its provisions. Now that we have facts instead of opinions by which to test the question, I am willing that the people of the North shall decide between these men and myself. Time has worked out the problem, and the result has been announced. The country now has the means of determining who has attempted to mislead and deceive the people—in whom they ought to place their faith, and in whose honor and judgment they ought to rely.

Since the question has been decided it seems to be a matter of amazement to the whole country how any one should have ever entertained a doubt upon the subject

But the most remarkable feature of the whole is, that after all these predictions should have so signally failed in regard to the State of California, and since slavery has been excluded there by a unanimous vote—there not being one dissenting voice in a Convention composed of more natives of slaveholding than free States—that the same cry about the extension of slavery should be kept up in respect to the mountain regions of New Mexico and Utah. And by whom is this clamor sounded? The very men who united with the Senator from South Carolina (Mr. CALHOUN) and his immediate associates to defeat the State bill of last session. If there be danger from that course, who but they are responsible for it? Whobut they prevented a constitutional prohibition of slavery being extended over those Territories during the past year?

But, sir, there is no ground for apprehension on this point. If there was one inch of territory in the whole of our acquisition from Mexico where slavery could possibly exist, it was in the valleys of the Sacramento and San Joaquin, within the limits of the State of California. It should be borne in mind that climate regulates this matter, and that climate depends upon the elevation above the sea as much as upon parallels of latitude. Any one who will take the pains to follow Fremont in his explorations, will find that the whole of the country not included in the State of California, is a high mountain region. Even in the Great Basin, the lowest point in the lowest valley, is marked on the map of those explorations as being more than four thousand feet above the ocean, while the average elevation of these valleys is at least five thousand feet, being more than twice the elevation of the tops of the Alleghany mountains near Frostburg, where the national road crosses. When you ascend towards the heavens twice as high as the Alleghany mountains, in order to get into valleys surrounded by mountain ranges many thousand feet higher, and covered with eternal snows, do you not think that you have found a charming country and a lovely climate for the negro, and especially for the profitable employment of slave labor? And yet the question is to be left open for future discussion—the agitation kept up, and the struggle carried into the next elections, to determine whether Congress shall pass a prohibition of slavery for such a country. And in the mean time the people of those Territories are to be deprived of the benefits of government, abandoned to their fate, and exposed to the horrors of anarchy and violence. The plan of the Administration favors this policy, and harmonises with it, although it avows a different motive. In my opinion, any thing is better than non-action; any form of government better than no government; and any settlement preferable to no settlement. Let us give the people a government, and settle the question. It matters not much what it is: my own vote is decided by the instructions of my constituents upon one point; upon that I have no discretion, but upon all other points I am ready to unite with the just, liberal, and patriotic men of all parties to put an end to the controversy. The question is already settled, so far as slavery is concerned. The country is now free by law and in fact—it is free according to those laws of nature and of God to which the Senator from Massachusetts alluded, and must forever remain free. It will be free under any bill you may pass, or without any bill at all. It would have been free under all or either of the bills that have ever been proposed—under a territorial bill with or without the prohibition—under the Clayton bill, or the State bill, or even under the no-bill at all recommended by the Administration, which is the worst of all, because it contains all the elements of mischief, without one of the advantages of either of the other propositions. I cannot conceive that there is a man in the Senate who believes that the result would not be precisely the same, so far as it relates to slavery, under each, either, or neither of these various propositions. Why, then, can we not settle the question? For the most difficult of all reasons; pride of opinion is involved. It requires but little moral courage to act firmly and resolutely in the support of previously expressed opinions. Pride of character, self-love, the strongest passions of the human heart, all impel a man forward and onward. But when he is called upon to review his former opinions, to confess and abandon his errors, to sacrifice his pride to his conscience, it requires the exercise of the highest qualities of our nature, the exertion of a moral courage which elevates a man almost above humanity itself. A brilliant example of this may be found in the recent speech of the distinguished Senator from Massachusetts, always excepting that portion relating to the Northern Democracy. This pride of opinion is all that stands in the way of a speedy, harmonious, and satisfactory adjustment of this vexed question. A few Senators feel themselves embarrassed by positive instructions, which leave them no discretion, but by far the greater difficulty arises from the thoughtless committals during the Presidential canvass, in political speeches, public meetings, and partisan action, stimulated by a policy which looked only to a partisan triumph, losing sight of its effects upon the peace, happiness, and destiny of the country. We all perceive and feel, to a certain extent, these embarrassments. My hands are tied upon one isolated point,

A SENATOR. Can you not break loose?

MR. DOUGLAS. I have no desire to break loose. My opinions are my own, and I express them freely. My votes belong to those who sent me here, and to whom I am responsible. I have never differed with my constituency during seven years' service in Congress, except upon one solitary question; and even on that I have no constitutional difficulties, and have previously twice given the same vote, under peculiar circumstances, which is now required at my hands. I have no desire, therefore, to break loose from the instruction. I know my duty too well to interpose my private opinion in opposition to the deliberate, solemnly expressed wishes of my State. And yet I am free to say that I firmly believe the time will come, if indeed it has not already arrived, when my constituents will see that they have been misled and deceived upon this question, and that the course their representative was pursuing in reference to it was safe, prudent, and discreet, at the same time that it would have led to the same result that they propose to accomplish in a different mode.

MR. President, I find that I am extending my remarks too far, and occupying more time than I intended. I will endeavor to return to the point from which I diverged. I believe I was answering the objections urged against the admission of California, with the view of showing that they were not well founded, that the irregularities complained of existed in a large number, if not a majority, of the new States which have been received into the Union, and that there was no regular rule upon the subject. Had Florida a census? She had one taken in 1840, showing that she then had only about one-half of the population requisite to entitle her to a member of Congress, and yet she was admitted in 1845 without any other census or the previous assent of Congress.

MR. YULEE. Will the Senator allow me to state the facts?

MR. DOUGLAS. Certainly.

MR. YULEE. A census of the population was taken under an act of the Territorial Legislature in 1838, and the sense of the people taken upon the question of application for admission into the Union. In the same year a convention of the people assembled in pursuance of law and adopted a constitution. A committee of the convention prepared and transmitted a memorial to Congress applying for the admission of Florida, accompanied with the constituton, and with an authenticated report of the census taken under the act of 1838. This census proved that, including the estimated population of those counties from which no returns were received, it was equal to the then ratio of representation, which was, I believe, at the time 47,760. The application for admission was not finally acted upon until 1845. No formal census was taken in that year, but estimates and information from members of the Legislature were laid before the committees of the two Houses which satisfied them of a sufficient population.

MR. DOUGLAS. Well, we now have the facts as stated by the Senator from Florida. In 1838, the constitution was formed by the people of Florida, without the previous assent of Congress, and without any law authorizing a convention to be called for that purpose, and without any census taken under the authority of the United States since 1830, although the people of the Territory had made such computations and estimates as satisfied them that they had the requisite population. In 1840 a census was taken, and, to the best of my recollection, it showed a population of between forty and fifty thousand, being a little more than one half of the amount required by the apportionment for a member of Congress. The constitution of Florida laid covered up under the dust and rubbish of the files of the Senate and House of Representatives, from 1838 to 1845, when the Senator (then a delegate from Florida) brought it forth, and asked us to bring that State into the Union, which was done without any other census being taken.

MR. YULEE. It is true the admission of Florida lingered from 1838 to 1845, but it was because the North was unwilling to depart from the practice which had grown into use of admitting slave and non-slaveholding States in pairs. We were delayed, notwithstanding a peremptory treaty provision in our favor, until a Northern Territory was prepared for admission, and then were admitted in the same act.

MR. DOUGLAS. When did the North oppose the admission of Florida at any time between 1838 and 1845? I am not aware that the North opposed it, or that the South supported it. Will the Senator inform me what man from the South proposed or advocated the admission of Florida during any portion of that period?

MR. YULEE. There was never any report, and her application was never brought to a vote.

Mr. Douglas. Did any Southern man advocate a report in your favor, or any Northern man oppose it?

Mr. Yulee. I was not here at the time of the application.

Mr. Douglas. And if you were not here, and had no personal knowledge on the subject, how can you venture to charge the North with having defeated your application? I want to know whether any man, North or South, supported the proposition.

Mr. King. Why?

Mr. Douglas. I do not ask why. I desire to know the fact. I wish to known upon what evidence the Senator from Florida charges the North with having kept Florida out of the Union for seven years, and at the same time intimating that the South desired her admission?

Mr. Yulee. I presume the South was no more desirous than the North to disregard what had come to be considered a proper practice in the admission of new States, to wit, a proper regard to the equilibrium of the two sections in the Senate.

Mr. Douglas. I know of no such practice, no such usage. It has so happened that once and a while a slave State and a free State have come into the Union at the same time; it was the result of accident, and not of a settled purpose to preserve an equilibrium between the free and slaveholding States. We disavow any such purpose. It is a new doctrine, broached for the first time during the last few days. Michigan and Arkansas were brought into the Union at the same session, and Iowa and Florida in the same act; but it was so done merely because those States happened to be prepared for admission at the same time. Florida was kept out by the common consent of the whole Union for seven years, not because there was no Northern Territory ready, but because she was not entitled to admission.

Mr. King. I will explain that matter if the Senator will allow me.

Mr. Douglas. Certainly. I will hear the explanation of the Senator from Alabama with great pleasure.

Mr. King. The South acted then as the South is disposed to act now. Their object was to ascertain the fact as to the requisite population, let the Territory be where it may, or whether it was to come in as a slave or as a free State—the South was only desirous that the State proposing to come in should have the requisite population. That population not existing in Florida at the time the census was taken, they did not vote for the admission of that Territory into the Union until it was ascertained that the requisite population was there.

Mr. Douglas. I thank the Senator from Alabama for his explanation.

Mr. Yulee. I was about to correct the Senator from Alabama, by observing that the application of Florida for admission into the Union was made when the ratio of population was at forty-seven thousand, and when her population was equal to that ratio.

Mr. Douglas. I repeat my thanks to the Senator from Alabama for his explanation. He tells us that the South did not vote for the admission of Florida from 1839 to 1845, and gives us the reasons why they did not. Now, I ask the Senator from Florida why he says that the North kept Florida out of the Union for seven years? Has he not done great injustice to the North?

Mr. Yulee. That certainly was the understanding at the time. I was a citizen of Florida and advocated its admission into the Union; and the understanding was, that our admission could not be expected until the North had a free Territory ready to bring into the Union with us.

Mr. Douglas. I do not question that such was the understanding in Florida, for it is difficult to get any understanding there which is not prejudicial to the North. But I am willing to take the explanation of the Senator from Alabama, for he was here at the time, and had the means of knowing; and, besides, he bears testimony to the fact that the South did oppose the admission of Florida during the period alluded to, and places the opposition upon a principle which is fair and legitimate. I would readily give him the benefit of this principle as applicable to California, were it not for the fact that the whole South voted for the admission of Florida in 1845, without the previous assent of Congress, and without showing by an actual census that she possessed the requisite population. If, therefore, there is any force in the precedent, as established in the Florida case, the South is estopped from objecting to the admission of California in the mode in which she now presents herself. I voted with them for the admission of Florida, and think that I have a right to claim their votes for California now upon the same principle. But, sir, the two Senators from South Carolina, and, indeed, several others, have objected to the admission of California, upon the ground that she has been guilty of usurpation, gross usurpation.

Mr. Butler. I withdraw the word "gross."

Mr. Douglas. Usurpation! Wherein does it consist? Whose rights have the people of California usurped? Certainly not the rights of the United States, for they expressly acknowledge our sovereignty, they claim to belong to us, and only ask that they may be permitted to enjoy the same rights and privileges in common with us. What rights, then, have they usurped? Not the rights of property, for they expressly recognise the right and title of the United States to the public domain, and all other public property within the limits of their State. What laws have they violated? Not the laws of the United States, for their complaint is that we have not extended our laws over them. Not the laws in force in the country at the time, for one of their objects in seeking to establish a government was to be able to execute those laws so far as they might be found applicable to their present condition. What provision of the Constitution of the United States have they infringed? They recognise to the fullest extent that Constitution as the paramount law, and have formed for themselves a State constitution in strict obedience to it. No Senator pretends that any provision of the Constitution of California is repugnant to the Constitution of the United States. What act have they done in violation of the principles of justice or law, public or private, local or national? None has been specified, and I apprehend none will be. How a whole community can be guilty of usurpation without a violation of law or an invasion of rights, I leave to others to explain. I hold that the people of California had a right to do what they have done: yea, that they had a moral, political, and legal right to do all they have done.

When we come to the discussion of questions of this kind, it is necessary to look into the rights of men and communities as they are acknowledged to exist throughout the civilized world. Have the people of the Territories or the United States no rights? I had supposed that the principle was universally conceded in this country that all men have certain inherent and inalienable rights; and I have yet to learn upon what grounds the people of the Territories are to be excluded from the benefit of this principle. I hold also, as a political axiom, that all mankind have an inherent and inalienable right to a government. This principle is universal in its application, and is recognised and acknowledged wherever civilization prevails and civil governments exist. I do not now speak of any particular form of government—whether it be free, or absolute—a republic, or a monarchy, or a combination of the two systems. But I assert it as an indestructible axiom in political science, that all men are entitled to a government of some kind. If any one of the crowned heads of Europe chooses to withdraw for a time his authority and protection from any one of his provinces or dependencies, the very act of such withdrawal authorizes his subjects, thus deprived of government, to institute one for themselves, to continue in operation until he shall resume his authority, and again extend his protection to them. If this principle is acknowledged in all arbitrary and despotic Governments, who is prepared to resist its application to a country whose institutions are all predicated upon the maxim that the people are the legitimate source of all political power? We find an illustration of it in the case of the Provisional Government of Oregon. There several thousand citizens of the United States found themselves inhabiting a portion of their own country, without a Government of any description to afford them protection. They established a Government for themselves, not in denial of but consistent with their obligations as citizens of the United States, and maintained it for the period of twelve years, until it was superseded by a regular Territorial Government, established by authority of Congress. Under that provisional government all the various relations of society were created and respected—marriages took place, children were born, estates were accumulated and distributed. When a question involving the rights of property in that Territory shall hereafter arise before the courts of the United States, what law of descent will determine the case. Will it not be the law of the Provisional Government of Oregon? There is no other law—there can be none that could reach the case. Were not the acts of that Provisional Government valid then? And, if so, was not the Government itself a legal Government, until superseded by competent authority? So with the Constitution and State Government of California. The treaty of cession dissolved the relations of that people with Mexico, and transferred their allegiance to the United States. They were thus deprived of the Government under which they had formerly lived, while we failed to furnish them one in place of it. They had no alternative left but to establish a government for themselves, as the people of Oregon had done before them. They proceeded, in a regular, quiet, and orderly manner, to adopt an admirable constitution—a constitution which would lose nothing in comparison with the best model in the oldest States of the Union. Under this Constitution they have elected their officers, and put in successful operation a well-organized State Government, and have sent their Senators and Representatives here, with their constitution in their hands, as Michigan did before them, to ask admission into the Union agreeably to the Constitution of the United States;

and in accordance with the precedents in like cases. All this has been done subject to the approval of Congress, and without the violation of law or usage. Now I submit the inquiry, whether that is not a legal Government until superseded by competent authority? I do not deny your power to reject her application, to keep her out of the Union, and even to remand her back to a territorial condition; but, until you take some step by which you supersede this Government, by substituting another, must it not remain valid and binding upon the inhabitants of California? Will not the acts performed under it and in pursuance of its authority be legal? Will not the enactments of its Legislature have the force of law? These questions are worthy of serious consideration, for they will speedily find their way into our courts for adjudication.

I hold that that is a legal Government, and that its acts must be held to be valid until you supersede it by giving the people another in its stead. Shall they be remanded back? What do you propose to gain by that? Is it that the people shall be subjected to the inconvenience, trouble, and expense of doing their work over again? I have heard no one say that it is not well done already. I have heard no objection pointed out to the constitution they have sent us; except that the boundaries of the State are too extensive. Well, I think they are too large. I would have preferred to have had them smaller. Had I been a Californian, with a voice in the Convention, I should have advocated the creation of three States, instead of one, within the limits they have prescribed. I think I would have made the summit of the Sierra Nevada the eastern boundary, instead of crossing that almost impassable range of mountains into the valley on this side. But while this is my present impression, I am not prepared to say that this range of mountains interposes a more formidable barrier to the union of the people on both sides of it into one State; than does the chain of the Alleghanies through Virginia and North Carolina. I think also that I would have divided the sea coast into three States, with the view of increasing the political power of the great Pacific slope in the Senate of the United States. I would have drawn one of the lines of division from the ocean through the centre of the bay of San Francisco to its head, and thence to the eastern boundary of the State, so as to have thrown the whole valley of the Sacramento into one State; and that of the San Joaquin into another. Each of these States would have had its own sea-ports upon the bay, with free access to the ocean and to the interior through its own waters, without passing into the other. I would have drawn the other line of division at right angles from the coast to the eastern boundary of the State, so as to have passed by the head of the valley of the San Joaquin, and have thrown all the territory south of that line, and extending east of the Colorado, into another State. Each of these proposed States would have contained an area considerably larger than that of New York. I think this would have been my view, had I been a member of the Convention which formed the constitution of California; or, at least, I would have inserted a clause in that constitution providing for these sub-divisions hereafter. I think that the people of California have made a mistake in this matter; a mistake, if it be one, which affects them, and not us, injuriously, and which may be corrected at any time by the consent of the Legislature and of Congress, as provided in the Constitution.

So far as the question of boundary is to have any bearing upon the slavery controversy, in reference to the equilibrium between the two great sections, the North is the loser and the South the gainer by these large boundaries. The people upon the whole coast were unanimous against the institution of slavery. The whole country was destined to be free, whether erected into one or three States. The only question to be considered in this respect was whether we should have one or three free States there. As it now stands we are to have one. I know not what the result would be in this respect. I will venture the prediction, however, that, if this question should be kept open one year longer, the two geographical divisions would change positions in regard to it—the South would come here unanimous in favor of the present boundaries, and a large portion of the North in favor of curtailment. While, therefore, I would have preferred different boundaries than those established by the people of California—while I deem the present boundaries as unwise in view of the interests of that people, I am disposed to leave the matter with them, and receive California into the Union as she is. If she hereafter shall come to the conclusion at which I have arrived, and ask for a subdivision, I presume that my vote, should I be here at that time, will be recorded in favor of granting her request. I have very little expectation, however, that this will ever be done. States, like individuals, are ever willing to extend, but seldom agree to curtail the limits of their possessions. All new States have indulged a pride, fatal to their interests, of desiring to embrace a territory extensive enough to make them the largest States in the Union. I can scarcely hope that California will, within any reasonable period, be able to sacrifice this pride to her substantial interests, which require that the Pacific coast should have a larger repre-

sentation in the Senate of the United States. This republic is composed of three great geographical divisions—the East, or the Atlantic slope—the West, or the Pacific slope—and the great Centre, embracing the valley of the Mississippi. I know of no reason why the Pacific coast is not capable of sustaining as large a population, and when that day arrives, should not be entitled to an equal representation, in the Senate as well as the House, with the Atlantic coast.

Mr. President, it was my desire to have said something of the resolutions introduced by the distinguished and venerable Senator from Kentucky, (Mr. CLAY;) but I find I have trespassed too long upon your kindness. I cannot do less, however, in justice to my own feelings, than to declare that this nation owes him a debt of gratitude for his services to the cause of the Union on this occasion. I care not whether you agree with him in all that he has proposed and said, you cannot doubt the purity of the motives and the self-sacrificing spirit which prompted him to exhibit the matchless moral courage of standing undaunted between the two great hostile factions, and rebuking the violence and excesses of each, and pointing out their respective errors in a spirit of kindness, moderation, and firmness, which made them conscious that he was right; and all this with an impartiality so exact that you could not have told to which section of the Union he belonged He set the ball in motion which is to restore peace and harmony to the Union. He was the pioneer in the glorious cause, and set a noble example, which many others are nobly imitating. The tide has already been checked and turned back. The excitement is subsiding, and reason resuming its supremacy. The question is rapidly settling itself, in spite of the efforts of the extremes at both ends of the Union to keep up the agitation. The people of the whole country, North and South, are beginning to see that there is nothing in this controversy which seriously affects the interests, invades the rights, or impugns the honor of any section or State of the confederacy. They will not consent that this question shall be kept open for the benefit of politicians, who are endeavoring to organize parties upon geographical lines. The people will not sanction any such movement. They know its tendencies and its danger. The Union will not be put in peril; California will be admitted; governments for the Territories must be established; and thus the controversy will end, and, I trust, forever.